



**Legal Mandates Related  
to the Conservation of  
Land and Natural Resources**

California Continuing Resources Investment Strategy Project  
(CCRISP)

The Resources Agency  
May 23, 2001

# **Final Report on the Legal Mandates Related to the Conservation of Land and Natural Resources**

California Continuing Resources  
Investment Strategy Project  
(CCRISP)

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The Resources Agency

May 23, 2001

This report was commissioned by the California Resources Agency and carried out by a team of researchers from the Resources Agency; University of California, Davis, Extension; Solimar Research Group; and other academic institutions throughout the State.

Basic information about the departments and agencies was gathered by reviewing the statutes and codes governing these agencies and by examining the agencies' own documents and web sites. This information was supplemented by personal and/or telephone interviews with high-level agency personnel in each agency. Interviewees are not responsible for the information and interpretations contained in this report. The information and interpretations contained in this report reflects the view of the researchers, not the views of the agencies or departments themselves.

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- Andrea Tuttle, Director; and Bill Stewart, Chief, Fire and Resource Assessment Program; Department of Forestry and Fire Protection
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## Executive Summary

This report of Legal Mandates provides an overview of the mandates of natural resource agencies in California. This report is part of the Resources Agency's California Continuing Resources Investment Strategy Project, or CCRISP.

CCRISP is meant to provide the State and its partners in conservation with a comprehensive and strategic approach in pursuing eight areas of conservation and stewardship, including: (1) biologically significant land including aquatic ecosystems and wetlands; (2) prime agricultural lands; (3) range lands; (4) forest lands; (5) outdoor recreational lands; (6) sites with significant natural historical value; (7) critical watershed values, and (8) significant urban open space natural values.

This report covers 19 agencies with conservation authority operating in California, including 14 State agencies, a state/federal partnership and four federal agencies. These agencies were chosen because they are the agencies that have primary responsibility for acquiring, restoring, and managing land and water resources in California. The discussion was limited to these agencies because CCRISP is primarily designed to set priorities for public investment. Many other agencies not included in this discussion perform important regulatory functions that also play a major role in conserving California's land and water resources.<sup>1</sup> Additional information on agency mission statements, acronyms, and powers of the Resources Agency are located in appendices, A, B, and C.

These 19 agencies represent an important part of what might be called the State's "conservation system." The system includes more than State government, and more than State and federal partnerships. It also includes local governments, regional agencies, and a wide variety of private "players," including nonprofit land conservation organizations, philanthropic institutions engaged in land conservation, and private landowners who have initiated their own conservation activities. This system also includes more than just the investment of public financial resources in the conservation of land and water resources. It includes local, State, and federal planning efforts and regulatory tools as well, including: local general plans; regional, State, and federal planning efforts surrounding natural resources protection; and permit approval processes by all levels of government that both restrict, and place conditions on, the activities of private landowners.

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<sup>1</sup> This report does cover the activities of the State Water Quality Control Board – an agency whose duties are mostly regulatory and the only State agency covered that is not part of the California Resources Agency. SWRCB plays a major role in conserving California's resources and also distributes some funding under Proposition 13, the water bond that passed in March of 2000.

The State and federal agencies that make and implement investment decisions are typically required by their mandates to perform one or more of the following four roles:

**Conservation for Production.** Some agency mandates focus on managing land and water resources in order to ensure continued production of economically valuable commodities from those resources, including timber, fish, grazing potential, and food plants.

**Conservation for Human Use.** Some agency mandates focus on the value of land for its human recreational use. Though parks are the most obvious example, the conservation of fish, fowl, and game for recreational hunting purposes is another.

**Conservation of High Value Natural Areas.** Some agency mandates, especially for parks departments, focus on acquiring and maintaining the most spectacular examples of scenic beauty and important ecosystems.

**Conservation of Natural Systems.** Some agency mandates require or encourage systematic conservation of whole ecosystems, watersheds, or habitat systems, often to maintain wetlands or to ensure the survival of specific plant and animal species.

In most cases, the conservation agencies covered in this report were originally created to pursue one or more of the first three conservation goals. Over time, most of them have received additional mandates focusing on conservation of natural resources. Often, new mandates have been “layered” on top of old ones, so that conservation of natural systems – required by new mandates since the 1970s – must be accommodated at the same time that old mandates dealing with other kinds of conservation are also achieved.

For some agencies, the natural systems mandate has now become predominant, though other goals must still be accomplished. For others, these conservation goals represent a set of conflicts that are difficult to reconcile. But the underlying point is that the pursuit of conservation goals is often not so much a matter of legal mandates, but, rather, a consequence of the balancing act that agencies must perform in their administrative and implementation practices in order to fulfill all of their legal mandates. *It is worth noting that many of the conflicts that arise as agencies seek to fulfill their different mandates are conflicts that will have to be resolved within CCRISP itself.* Recreational and production use of land, for example, always holds the potential for conflict with natural systems conservation.

For this reason, we suggest that the legal mandates analysis be put to a very specific use. We believe this document can be best used as a starting point to examine the role each agency plays and how their activities might be coordinated

more effectively as part of CCRISP to achieve the State's conservation goals. To that end, we recommend the following steps:

1. *The State should undertake an expanded and more detailed assessment of the role each agency plays in the overall California conservation "system" and how that role will fit into CCRISP implementation.*
2. *The State should place renewed focus on updating management and implementation plans in light of CCRISP and on plan-based implementation, and should encourage federal agencies to do the same.*
3. *The State should consider the establishment of an Interagency Conservation Coordinating Committee (or revamping the Biodiversity Council or some other existing entity<sup>2</sup>) to perform this function, to ensure each agency is performing its preferred role.*
4. *As CCRISP develops statewide conservation priorities, the state should re-examine agency departmental mandates to determine whether they need to be changed in order to accomplish the state's conservation goals.*

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<sup>2</sup> Discussion of the role of the Biodiversity Council, other standing entities and new groups of agencies, stakeholders and decision makers will be clarified in the CCRISP Outreach Strategy, now in development.

**Table 1: Agency Mandates at a Glance**

	High Biodiversity Lands, Freshwater Aquatic Systems, and Wetlands	Agricultural Lands	Range Lands	Forest lands	Recreation / Education	Historical Value (Archaeological / Paleontological)	Watershed	Urban Open Space	Minerals	Water Pollution	Regulatory Authority	Land Acquisition	Land Holdings
<i>State Resources Agencies</i>													
<b>Department of Fish and Game</b>	X	X	X	X	X		X		X		X	X	X
<b>Wildlife Conservation Board</b>	X	X	X	X	X		X					X	
<b>Department of Forestry and Fire Protection</b>	X		X	X	X	X	X	X		X	X		X
<b>Department of Parks and Recreation</b>	X			X	X	X		X			X	X	X
<b>Department of Conservation</b>		X							X		X		
<b>Department of Water Resources</b>	X				X		X				X	X	X
<b>California State Lands Commission</b>	X		X	X	X	X			X				X
<b>California Conservancies</b>	X	X		X	X		X	X				X	X
<i>Other State Agencies</i>													
<b>State Water Resources Control Board and Regional Water Quality Control Boards</b>	X	X	X	X			X		X	X	X		
<i>Joint Entities</i>													
<b>CALFED</b>	X	X					X			X		X	
<i>Federal Agencies</i>													
<b>U.S. Fish and Wildlife Service</b>	X				X		X			X	X	X	X
<b>National Park Service</b>	X				X	X	X	X			X	X	X
<b>U.S. Forest Service</b>	X		X	X	X		X	X			X	X	X
<b>Bureau of Land Management</b>	X		X		X				X		X	X	X



**Table 2: Agency Activities Related to Conservation for Natural Systems, and Production and Human Use**

	Conservation for Natural Systems	Conservation for Production and Human Use
<b>Department of Fish and Game</b>	Habitat acquisition, CEQA mitigation bank sites, wetland restoration, Significant Lands and Natural Areas Program, Streambed Alteration Agreements, NCCPs	May protect fisheries for economic value and game animals for recreational value
<b>Wildlife Conservation Board</b>	Acquisition, Grant programs for restoration	Recreational use, Public Access Program
<b>Department of Forestry and Fire Protection</b>	FRAP, State forests, urban forestry, watershed protection in THPs and Fire Plan	Timber harvest policies, fire protection activities
<b>Department of Parks and Recreation</b>	Acquisition; reducing habitat fragmentation, conversion, and exotic species invasion	Recreational use
<b>Department of Conservation</b>	Watershed planning assistance	Conservation of farmland
<b>California State Lands Commission</b>	Conservation uses of public trust lands, Kapiloff Land Bank	Recreation and commerce uses under the Public Trust Doctrine
<b>California Conservancies</b>	Habitat acquisition	Recreational use
<b>Department of Water Resources</b>	Multi-purpose floodplain management objectives, Multi-purpose SWP facilities	Construction of dams and flood control practices
<b>State Water Resources Control Board</b>	Regulatory authority to influence land management practices for watershed protection, water rights for fish and wildlife	Water rights for agricultural and urban uses
<b>CALFED</b>	Habitat restoration programs, influence on State water policy, manages water for fish/wildlife	Allocates water for agricultural and urban uses
<b>U.S. Fish and Wildlife Service</b>	Land Acquisition Priority System (LAPS), administers land acquisition and restoration grants	Secondary uses (recreation, hunting, fishing) on wildlife refuges
<b>National Park Service</b>	Acquisition, natural resource inventories	Recreational use, public education
<b>U.S. Forest Service</b>	Natural resource inventories and monitoring	Timber and grazing management, Recreation use
<b>Bureau of Land Management</b>	Resource Management Plans, Opportunities for land exchanges within the State	Timber, grazing and minerals management, Recreation use

## I. Introduction

California is known for its open spaces, high value agriculture, and biodiversity. However, this status is under threat as the State is also characterized by continued projections of high population growth and expanding urban development. The California Continuing Resources Inventory Strategy Program (CCRISP) is a strategic resource planning effort to develop a set of policy recommendations for protecting California's diverse biological and natural resources through conservation, restoration, and enhancing stewardship of our natural and working landscapes.

CCRISP plays an important role in giving the State and its partners a comprehensive and strategic approach for achieving several core objectives. The State Resources Agency has identified eight areas of conservation and stewardship, including:

- Protecting and stewarding *high priority biodiversity lands, freshwater aquatic ecosystems and wetlands*;
- Protecting *prime agricultural lands* for their current and potential resource production values and for their current and potentially natural resource values;
- Protecting *range lands* for continued productive ranching and grazing areas and for protection of natural vegetation communities and ecosystems;
- Protecting *forest lands* for both sustainable timber value and for protection of the diversity of forest ecosystems;
- Protecting and stewarding *natural lands that can sustain outdoor recreational and educational facilities and pursuits* and can accommodate visitors in a natural setting;
- Protecting and stewarding *sites with significant natural historical value* (archaeological and paleontological resources);
- Protecting *critical watershed values* necessary to preserve ecosystem values in watersheds and the environmental quality to sustain those resources;

- Identifying and protecting existing *significant urban open space natural values* so that they can be healthy and sustainable over the long term, and restoring urban natural values of statewide concerns.<sup>3</sup>

The report of Legal Mandates is designed to aid CCRISP by providing an overview of the mandates of natural resource agencies operating in California. The report does not seek to catalogue all legal requirements of all departments under the Resources Agency's direction. Rather, the purpose of this effort is to provide a strategic analysis of State and federal agencies with conservation missions consistent with CCRISP.

The long-range objective of the legal mandate analysis is to identify what existing agencies are doing, determine how that work relates to their primary and secondary mandates, and to recommend realistic approaches for improving conservation opportunities in concert with the emerging CCRISP methodology. As the first step toward that objective, this report defines the primary and secondary mandates of State and federal agencies operating in California, and lists the ways in which these agencies are required to fulfill their various conservation missions.

This report covers 19 agencies with conservation authority operating in California, including 15 State agencies and four federal agencies. These agencies were chosen because they are the agencies that have primary responsibility for acquiring, restoring, and managing land and water resources in California. The discussion was limited to these agencies because CCRISP is primarily designed to set priorities for public investment. Many other agencies not included in this discussion perform important regulatory functions that also play a major role in conserving California's land and water resources.<sup>4</sup>

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<sup>3</sup> California Resources Agency. First Draft Report on the Methodology to Identify State Conservation Priorities. CCRISP. The Resources Agency, April 2, 2001.

<sup>4</sup> This report does cover the activities of the State Water Quality Control Board – an agency whose duties are mostly regulatory and the only State agency covered that is not part of the California Resources Agency. SWRCB plays a major role in conserving California's resources and also distributes some funding under Proposition 13, the water bond that passed in March of 2000.

## **II. How Conservation Works in California**

### **The Conservation “System”**

The State and federal agencies described in this report – along with the missions they are charged with and the roles they play – are part of an overall system designed to promote the conservation of land, aquatic, and other natural resources and ecosystems in the State.

The system includes more than State government, and more than State and federal partnerships. It also includes local governments, regional agencies, and a wide variety of private “players,” including nonprofit land conservation organizations, philanthropic institutions engaged in land conservation, and private landowners who have initiated their own conservation activities.<sup>5</sup>

This system also includes more than just the investment of public financial resources in the conservation of land and water resources. It includes local, State, and federal planning efforts and regulatory tools as well, including: local general plans; regional, State, and federal planning efforts surrounding natural resources protection; and permit approval processes by all levels of government that both restrict, and place conditions on, the activities of private landowners.

For example, both the California Department of Fish & Game (DFG) and the U.S. Fish & Wildlife Service (FWS) often require landowners to donate sensitive land to conservation as an offset condition of receiving permits under the State and federal Endangered Species Acts. Similarly, local governments impose many conditions on private landowners in order to qualify for local land-use permits. It is most useful, therefore, to view these state and federal agencies as part of an overall system for conserving land and water resources that includes both public investment and regulation of public and private activities. It is also helpful to view these agencies, and the system of which they are a part, in the context of CCRISP’s scope.

By design, CCRISP defines conservation broadly and seeks to deal with a wide variety of conservation values, ranging from biodiversity to working landscapes. In many ways, these conservation values also make up a system. They include a wide range of uses for natural and production landscapes, which, in turn, are protected and promoted through the use of a variety of policies and tools, including public investment, government regulation, and private investment (including philanthropy and non-profit activity).

In most cases each of these values is encouraged both by investment and regulation by the public sector. Sometimes these functions are performed by the

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<sup>5</sup> The Nature Conservancy is one such national non-profit playing a major role in California.

same agency; sometimes they are performed by related agencies; and sometimes they are performed by completely different agencies. Public investment in protecting agricultural land, for example, might be undertaken by the State or by a locality.<sup>6</sup> However, regulation to protect agricultural land is almost always the responsibility of local government.

By contrast, the U.S. Fish & Wildlife Service performs both regulatory and investment functions in the service of protecting wildlife. The agency administers the U.S. Endangered Species Act (ESA) as a regulator, often requiring landowners to deed over lands for wildlife conservation purposes. But the agency also promotes the wildlife conservation goals of the Endangered Species Act as an administrator of public investment. FWS recommends priorities for federal acquisition, works with federal bodies that make investment decisions, and implements those decisions by purchasing land.

Wildlife protection at the State level, in contrast, is divided among several related entities. Public investments in wildlife conservation are directed by the Wildlife Conservation Board (WCB), rulemaking decisions under the Endangered Species Act are made by the Fish & Game Commission, and implementation is achieved through the Department of Fish & Game. State resource management is often divided between decision-making bodies (such as boards and commissions) and implementation at the department level. Thus, regulatory and investment decisions are sometimes coordinated and sometimes not.

Although its analytical tools could be used by any “player” in the system (federal, State, regional, local, or even private), CCRISP is primarily designed to set priorities for public investment. While a full analysis of regulatory agencies affecting conservation priorities is outside the scope of this report, the Resources Agency recognizes that regulatory agencies will play a continuing role in setting conservation priorities<sup>7</sup>. CCRISP’s stated goal is to create tools that will ensure that State government – both individually and in partnership with the federal government – makes better decisions about how to invest public financial resources in land and natural resources conservation. This makes it all the more important to understand the nature of the “roles” that exist in the conservation system, and especially the roles related to public investment.

The State and federal agencies that make and implement investment decisions are typically required by their mandates to perform one or more of the following four roles:

**1. Conservation for Production.** Some agency mandates focus on managing land and water resources in order to ensure continued production of

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<sup>6</sup> Such investment usually comes in the form of agricultural conservation easements.

<sup>7</sup> CCRISP is currently commissioning a report on the legal mandates of regulatory agencies and how those mandates effect conservation priorities and the investment of conservation funds in different resources in different areas of the State.

economically valuable commodities from those resources, including timber, fish, grazing potential, and food plants.

- 2. Conservation for Human Use.** Some agency mandates focus on the value of land for its human recreational use. Though parks are the most obvious example, the conservation of fish, fowl, and game for recreational hunting purposes is another.
- 3. Conservation of High Value Natural Areas.** Some agency mandates, especially for parks departments, focus on acquiring and maintaining the most spectacular examples of scenic beauty and important ecosystems.
- 4. Conservation of Natural Systems.** Some agency mandates require or encourage systematic conservation of whole ecosystems, watersheds, or habitat systems, often to maintain wetlands or to ensure the survival of specific plant and animal species.

In some cases these roles may be difficult to reconcile, as when one or more agencies seek to conserve natural systems while simultaneously protecting access for production or recreation. In other cases, these roles may be best seen as complimentary – as when one agency protects the high value scenic and natural areas while another protects the broad ecosystem required to support it. The purpose of this report is to show how agency roles might be better integrated to manage these conflicts and complements within the overall system, especially in the context of CCRISP's tools for making public investment decisions.

### **Overlapping Mandates**

As the agency-specific discussions below illustrate, many mandated programs require multiple-agency implementation. This at times can present challenges to implementing agencies. The Committee for the National Institute of the Environment (CNIE) identified U.S. environmental policy as cooperative federalism, different from other policy realms which are entirely federal or State-local in nature. Cooperative federalism implies that responsibilities for policy are shared, and that planning and implementation between governmental levels complement each other. Successful management of environmental resources can only occur when there is partnership and capacity building between different levels of government.<sup>8</sup> In general, while governmental structure is designed to be complimentary, the roles of the federal and State governments in their policy-making approaches and implementation are distinct. The federal government sets national goals through broad regulatory legislation and allocates funding for

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<sup>8</sup> Committee for the National Institute of the Environment, Congressional Research Service. *Environmental Policy: Issues in Federal-State Relations*, Prepared by Claudia Copeland, July 1, 1997.

implementation, while the State is responsible for local implementation and enforcement.<sup>9</sup>

A key component of working effectively on overlapping jurisdictions is the ability to share information. Agencies typically have unique methods of information gathering and cataloging. Attempts to merge information in order to collaborate on a project often fail due to differing criteria and metadata. The California Biodiversity Council is one example of cooperative federalism. The Endangered Species Act, National Environmental Policy Act (NEPA), and California Environmental Quality Act (CEQA) are each examples of programs requiring multi-agency action. To the extent a Lead Agency exists (e.g., ESA and FWS) integration may be maximized. The matrix in Table 1 (executive summary) illustrates the various and often overlapping mandates agencies face.

### **Distinguishing Mandates From Rulemaking and Implementation**

Mandates are generally understood to be those things agencies must do. Specifically, they are the statutory directives given implementing officials by Congress, by the Legislature or through California's initiative process. Further, executive orders may define directives that have the power of statute though they may be dissolved by future executive action. By definition, statutory mandates must be interpreted by implementing agencies, and implemented through the creation of narrow rules and regulations. In some cases, statute clearly defines mandate priorities, or primary mandates, and designates subsidiary or secondary mandates. In the absence of intervening statutory authority, agency managers identify mandate priorities through stakeholder input, scoping meetings, or staff analysis. Administrative agencies adopt, amend and repeal regulations under the authority granted to them by either constitutional provisions or statutes.

### **Rulemaking**

Regulatory agencies are required by the Administrative Procedure Act (APA) to use the public rulemaking process. Unless the Legislature has created an exemption, agencies must follow these rulemaking procedures when adopting, amending, or repealing regulations.<sup>10</sup> The process requires State agencies to give public notice, to receive and consider public comments, to submit regulations and rulemaking files to the Office of Administrative Law for review to ensure compliance with the requirements of the APA, and to have the regulations published in the California Code of Regulations. (California Code sections 11340-11359)

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<sup>9</sup> In some cases in the natural resources arena, federal agencies actually implement federal policy, while the California State government has complementary legislation that is implemented by State agencies.

<sup>10</sup> California Office of Administrative Law ([www.oal.ca.gov](http://www.oal.ca.gov)).

## **Implementation**

As agencies implement regulations based on statutory authority, they must apply sufficient discretion to allow functionality. This suggests that any enforcement action must be taken with the broader intent of statute in mind, as well as the criteria defined by regulations. Many agencies develop a management plan which explicitly articulates agency priorities. While these priorities must reflect published rules, they may also reflect administrative and constituent priorities and concerns. In real-world contexts, administrative discretion allows agencies to implement those mandates they deem most important when confronted with limited time and resources. If the enabling legislation, or intervening legislation defines mandate priorities, agency discretion is more limited. In most cases, however, statute does not provide a map for mandate priority – relying instead on the discretion of professionals in the field.

Implementation is typically guided by a management plan, or similar plan-based implementation. The process of developing management plans involves stakeholders at various levels, and requires public notification of preferred approaches as defined by NEPA and CEQA. In many cases, the management plans require explicit Environmental Impact Statement (EIS) or Environmental Impact Report (EIR) publication in draft form, the solicitation of public comments, and final publication with comments accommodated.

## **The Movement Toward Plan-Based Implementation**

Increasingly, both State and federal resource agencies are moving toward what might be called “plan-based” implementation. Such implementation is carried out under acquisition and/or management plans that serve as a guide for implementation action. In some cases, these plan-based efforts are agency-wide, in others they might be geared toward specific management districts or specific units. Federal and State agencies are increasingly creating strategic and/or management plans to implement their mandates.

The National Park Service, for example, has different levels of planning documents which outline and prioritize goals. The highest level of planning is a system-wide strategic plan, identifying the long and short-term goals for a five-year period. Based on the goals listed in the park’s general management plan, a strategic plan is developed to prioritize goals for the next 3-5 years. Each park then develops an implementation plan that identifies specific actions to take in order to meet the goals of the park’s strategic plan<sup>11</sup>. The most prominent example of this planning process in California has been the Yosemite National Park plans.

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<sup>11</sup> Why do We Plan? (slide show). National Park Service. United States Department of Interior. (10/2/2000). FTP: <http://www.nps.gov/planning/plan/sld001.htm>



State agencies routinely use plans as a way to organize implementation as well.<sup>12</sup> Increasingly, however, both State and federal agencies are using forward-looking conservation planning as a means of organizing conservation priorities in geographically specific areas, especially through the use of federal Habitat Conservation Plans (HCPs) and State Natural Communities Conservation Plans (NCCPs). Such plans are often derived from regulatory and permitting requirements – particularly so-called “take” permits under the State and federal Endangered Species Act. As such, they can serve as a planning tool for both regulatory decisions and public investments. HCPs and NCCPs, for example, often serve as a guide for project-specific requirements that private developers dedicate some land for “mitigation” of impacts on endangered species habitat. However, HCPs and NCCPs also often serve as a guide for public investment in conservation in the geographic areas they cover.

### **III. Agency Mandates in Perspective**

#### **State Agencies That Are Part of the Resources Agency**

##### **California Resources Agency**

California’s first effort at creating a single resources-oriented agency was the creation in the 1920s of the Department of Natural Resources. It was composed of the various agencies administering mining, forestry, and fish and game and made natural resource management a fixture of California government. As the mandates of agencies and the science of resource management have evolved, many of the units of the Natural Resources Department were spun off into individual departments.

The California Resources Agency, in its current form, was established in 1961 by Government Code §12800. It is the Cabinet-level agency that oversees administrative departments, boards, and commissions dealing with natural resources.

The Secretary of the Resources Agency is appointed by, and holds office at the pleasure of the Governor. The Governor may also appoint an Assistant Secretary of Resources for Energy Matters and an Assistant Secretary for Coastal Matters (Gov. Code §12801, §12802.5).

The Resources Agency has broad authority to establish and coordinate conservation policy in the State. With supervisory powers over each department, the legal mandates of the departments in the Resources Agency are also the mandates of the Resources Agency itself. Yet the Secretary has the authority to look beyond these mandates to recommend new policies or administrative

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<sup>12</sup> for example, the State Water Plan and the State Fire Plan.

structures to the Governor. Both the Agency and the Secretary have a series of specific powers granted by statute, which are laid out in Appendix D.

Departments, boards, and commissions that are part of the Resources Agency include:

- Department of Conservation
  - Department of Fish and Game
  - Department of Forestry and Fire Protection
  - Department of Parks and Recreation
  - Department of Water Resources
  - Department of Boating and Waterways
  - California Conservation Corps
  - Board of Forestry and Fire Protection
  - California Coastal Commission
  - California Energy Commission
  - California Native American Heritage Commission
  - California State Lands Commission
  - California Water Commission
  - Colorado River Board of California
  - Delta Protection Commission
  - Fish and Game Commission
  - Reclamation Board
  - San Francisco Bay Conservation and Development Commission
  - State Mining and Geology Board
  - State Parks and Recreation Commission
- The Resources Agency also includes the seven State conservancies (Gov. Code §12805)<sup>13</sup>.

This report includes discussion of all agencies, boards, and commissions within the resources agency that have land acquisition, management, or restoration responsibilities. Although some boards are technically independent of the departments or the Resources Agency, they have similar responsibilities (for example, the Department of Fish and Game and the Fish and Game Commission). These boards and departments are considered together in this report.

### **Department of Fish and Game and the California Fish and Game Commission**

The Department of Fish and Game is charged with conserving the fish and wildlife and endangered species of the State, both for productive use (as in the

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<sup>13</sup> This code section also includes the State Water Resources Control Board and each regional water quality control board but the Governor's Reorganization Plan No. 1 of 1991 §193 supplemented this section and assigned the SWRCB and the regional boards to the Cal/EPA. Other agencies and commissions are placed in the Resources Agency via their enabling legislation.

case of commercial fisheries) and human use (recreational hunting, fishing, bird watching etc.). Over time, it has also increasingly become involved in conserving the natural systems that support fish and wildlife, rather than ensuring that adequate stocks are available for hunting and fishing.

In other words, the Department of Fish & Game's original role was focused mostly on conservation for production (fisheries) and conservation for human use (hunting), but it is increasingly focused today on conservation of natural systems.

Most DFG acquisition funds, for example, now go for conservation of natural systems rather than maintaining hunting and fishing grounds. It has regulatory authority to alter public and private development projects that impact threatened and endangered species. DFG is part of a wildlife conservation system at the State level that includes the Fish and Game Commission, which engages in rulemaking, and the Wildlife Conservation Board, which allocates State acquisition money. Indeed, the legal mandates of DFG are deeply intertwined with those of the Fish and Game Commission and are difficult to discuss separately.

The responsibilities of the Department of Fish and Game (DFG) were summed up in one legislative finding as: "[P]rotecting, conserving, and perpetuating native fish, plants, and wildlife, including endangered species and game animals, for their aesthetic, intrinsic, ecological, educational, and economic values" (FGC §2701). An entire code of State law, the California Fish and Game Code (FGC), establishes the details of this legal mandate for DFG. It includes the California Endangered Species Act, the Oil Spill and Response Act, and Natural Communities Conservation Planning legislation. In addition, the FGC includes numerous mandates regarding the regulation of the take of fish and wildlife, and of projects that alter streambeds. Furthermore, the California Environmental Quality Act (CEQA) contained in the Public Resources Code also outlines some of the DFG's authority for fish and wildlife.

The Fish and Game Commission was established in 1870 and incorporated into the State Constitution in 1940 (FGC §101). It consists of five members appointed by the Governor and confirmed by the Senate. It has the authority to establish regulations for the take of birds, mammals, fish, amphibians and reptiles. After a public hearing process, the Commission biennially adopts hunting and sport fishing regulations including establishing seasons, territorial limits, means of taking, bag and size limits and other restrictions for game birds, mammals and fish (FGC §203, §205).

The Commission is also responsible for setting general policies for the conduct of the DFG pursuant FGC §703. These policies relate to fisheries and wildlife management, introduction of exotics, use of departmentally administered land and other areas of DFG conduct.

The Fish and Game Commission enacts rules and regulations for the DFG after public hearings. The findings of DFG biologists are usually central in the Commission's decision making. Other interest groups, such as hunters, commercial fishers, and environmentalist groups lobby the commission and sometimes their biologists can produce alternative assessments of fish and wildlife populations. The Commission must balance conservation with the extractive interests of recreation and industry. However, these interests are ultimately concerned with sustainable populations as well and have served to broaden a political base for conservation activities.

As early as 1870 there was a significant decline in California's fisheries caused by over-fishing and the degradation of rivers and streams by mining, timber, agriculture and water diversion activities. In 1870 a California Fish Commission was established with authority to regulate the fishing season and prohibit pollution of rivers. In addition, it conducted research, propagated fish, and worked to have fish screens installed. In 1878 the Commission was given responsibility for protecting game animals as well. The business interests the Commission was trying to regulate were quite powerful, even though the Commission had their own budget through license fees and commercial fishing taxes. In addition, there were tensions within the Commission between the conservation needs of fisheries and the economic interests of the fishing industry. In 1933 a unified fish and game code was created and in 1940 the Department of Fish and Game was made a constitutional body with plenary powers. The decline of fisheries continued to be an intractable problem, culminating in the collapse of the sardine fishery after World War II.

In the 1970s environmental concerns came to the forefront in State politics and a number of significant environmental laws were passed: the California Environmental Quality Act in 1970 and the California Endangered Species Act in 1973. Both of these laws significantly expanded DFG's role by requiring it to specify mitigation measures for development projects that impacted fish and wildlife. CESA also prompted DFG to identify wildlife reserves for protecting threatened and endangered species. This augmented its traditional interests in land, which often focused on establishing wildlife management areas that allowed hunting. In the mid 1990s the use of conservation banking for resource management was endorsed by the Legislature; and DFG began to hold and certify mitigation lands for projects affecting resources of concern.

The single-species protection measures of CESA have gradually evolved to a focus on protecting habitat for multi-species, as the Natural Communities Conservation Planning process demonstrates. The Salmon, Steelhead Trout and Anadromous Fisheries Program Act, and the regulation of projects altering streambeds also demonstrate a shift in DFG towards nontraditional conservation activities. Today these activities are receiving much more funding than conservation for hunting and fishing, which is primarily funded through user fees.

## **California Endangered Species Act**

The Fish and Game Code includes the California Endangered Species Act of 1973 (CESA) (FGC §2050-2116), which DFG administers, including listing and recovery requirements. CESA states that, "[I]t is the policy of the State to conserve, protect, restore, and enhance any endangered species or any threatened species and its habitat and that it is the intent of the Legislature, consistent with conserving the species, to acquire lands for habitat for these species" (FGC §2052). All listing decisions are made by the California Fish and Game Commission (see above). CESA prohibits State agencies from approving activities that will jeopardize or adversely modify the habitat of threatened or endangered species when measures are available to avoid these impacts (FGC §2053). FGC §2081 allows the department to issue incidental take permits and requires it to adopt incidental take regulations. For projects that involve incidental take, DFG must specify measures to minimize and fully mitigate the take. The DFG, with approval of the Commission, may acquire land or nonmarine water rights to establish ecological reserves for the protection of many species including threatened and endangered species (FGC §1580).

## **California Environmental Quality Act**

Pursuant CEQA Guideline §15386 and Fish and Game Code §1802, DFG is a trustee for the fish and wildlife resources of the State. As such it is required to consult with lead and responsible agencies on environmental documents for proposed projects. DFG is also required to provide, as available, biological expertise to review and comment on environmental documents. DFG is the only State agency with specific statutory authority to impose fees on permit applicants (including local government permit applicants) to review CEQA documents (FGC §711.4).

## **Take of Fish and Wildlife**

The Fish and Game Commission is mandated to regulate the take of fish and animals (FGC §200) and to adopt hunting and fishing regulations for game animals, birds, and sport and commercial fish (FGC §203, §205). Several code sections specifically address the take and management of certain species. For example, the department is required to establish deer herd management units, develop plans to restore and maintain wild deer herds, and provide for diversified use of deer (FGC §452 et seq.).

## **Regulation of Dams**

The DFG is also mandated "from time to time" to examine all dams in the State and to order, upon a finding by the Fish and Game Commission, dam owners to construct a fishway if there is not free passage for fish over or around the dam

(FGC §5930-1). FGC §5937 requires dam owners to allow sufficient water to pass through the dam to keep in good condition any fisheries below the dam. The Fish and Game Commission receives applications for new dams filed with the Department of Water Resources and can order the construction of a fishway if it is necessary and practical. If not, the Commission can order the owner to establish a fish hatchery (§5933, §5938).

### **Oil Spills**

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act of 1990 established the Office of Spill Prevention and Response in the DFG and provides it with the authority to direct spill response, cleanup, and natural resource damage assessment activities (CA Gov. Code Chpt. 7.4, PRC §8750 et seq.).

### **Streambed Alteration Agreements and Timber Harvest Plans**

Of broad effect, FGC §1600 et seq. charges the DFG with regulating any project altering the bed, bank or channel of a river, stream, or lake if that project may substantially impact fish and wildlife resources. In issuing a Streambed Alteration Agreement, the DFG is required to propose modifications to the project to protect any fish and wildlife resources on the site that may be substantially adversely affected. DFG also comments or makes recommendations on any significant environmental issue raised by a proposed timber harvest plan (§703).

### **Conservation and Restoration Programs**

Several Acts have been added to the FGC to establish specific conservation programs. In 1981 the Significant Natural Areas Program legislation articulated the Legislature's policy of maintaining and perpetuating significant natural areas (FGC §1930 et seq.). This program is now carried out by the Wildlife Habitat Data Analysis Branch of the DFG. The Natural Community Conservation Planning Act (FGC §2800 et seq.) allows local governments and interest groups in cooperation with DFG and U.S. FWS to establish comprehensive plans that designate where development can occur and where permanent wildlife preserves should be set aside.

The Salmon, Steelhead Trout and Anadromous Fisheries Program Act required DFG to establish a comprehensive program to increase the natural production of Salmon and Steelhead Trout (as opposed to hatcheries). The Act established as State policy that this should be accomplished primarily through improvement in stream habitat. In addition, habitats shall not be diminished without offsetting the impacts (FGC §6900 et seq.).

## **Private Lands Management**

In 1983 the legislature passed the Enhancement and Management of Fish and Wildlife and their Habitat on Private Lands legislation, which created the Private Lands Management Program (FGC §3400-3409). This is an incentive program to encourage private landowners to maintain quality habitat on their lands. In exchange for habitat improvements, landowners are able to increase profits from their lands by offering fishing and hunting opportunities. About 850,000 acres are enrolled in the program.

## **Wetlands**

DFG programs specifically involving wetlands include the Central Valley Habitat Joint Venture (CVHJV), a cooperative effort between State and federal agencies and private organizations to implement the North American Waterfowl Management Plan, which aims to protect, restore, and enhance wetlands and associated upland habitats. One of the components of this plan was the establishment of the Inland Wetlands Conservation Program that provides for habitat acquisition, and acquisition of conservation easement, leases, and management agreements with private owners for wetlands and associated upland habitats (FGC §1400). The Sacramento-San Joaquin Valley Wetlands Mitigation Bank Act of 1993 (FGC §1775) empowers DFG to create wetland mitigation banks to aggregate offsite mitigation efforts.

## **Land Holdings**

DFG currently owns or administers 868,500 acres of Wildlife Management Areas (where some hunting is allowed), Ecological Reserves (for threatened or endangered species or habitat types), Conservation Easements, Public Access, and Fish Hatcheries. This land is often obtained not through conventional acquisition processes but as part of permit approval processes, especially under CESA.

## **Relationship with CCRISP**

DFG and the Fish & Game Commission are charged with protecting and conserving fish, plants, and wildlife for a wide variety of purposes, some of which conflict with one another. For example, protecting fisheries for their economic value and game animals for their recreational (hunting) value may lead to practices that focus on short-term hunting and fishing value rather than long-term sustainability even of those resources. However, all of DFG's land-related activities have a species and habitat preservation component and hunting and fishing are outdoor recreational activities.

The DFG and the Fish & Game Commission have many mandates related to land acquisition that would complement well CCRISP's conservation objectives.

Through the administration of CESA, DFG can acquire habitat for threatened and endangered species through acquisition or mitigation measures. DFG's role as a trustee agency for CEQA has led it to be increasingly involved in developing project mitigation measures. Moreover, the DFG is involved in a number of efforts to conserve and restore wetland habitats. CCRISP efforts in identifying lands with significant biological diversity may be informed by the Significant Lands and Natural Areas Program and the research of the Wildlife Habitat Data Analysis Branch.

The DFG also has mandates that give it authority to influence the management of watersheds through inspecting the design of dams for fishery protection, issuing Streambed Alteration Agreements, and commenting on Timber Harvest Plans.

### **Wildlife Conservation Board**

The Wildlife Conservation Board (WCB) makes decisions on using State funds to acquire and restore land for wildlife conservation purposes. With around \$40 million a year to invest in acquisitions the WCB plays a large role in the State's conservation activities. It conserves land for wildlife oriented recreation (hunting and observation) and funds development of land for public access. It also conserves natural systems, with programs in wetland and riparian habitat conservation and restoration.

WCB was created through The Wildlife Conservation law of 1947 (FGC§1300). The enabling legislation states, "it is the policy of the State to acquire and restore to the highest possible level, and maintain in a state of high productivity, those areas that can be most successfully used to sustain wildlife and which will provide adequate and suitable recreation. To carry out these purposes, a single and coordinated program for the acquisition of lands and facilities suitable for recreational purposes, and adaptable for conservation, propagation, and utilization of the fish and game resources of the State, is established" (FGC §1301).

Thus, like the Department of Fish and Game, the WCB originally had a mission mostly related to conservation for human use (hunting and fishing) but now focuses mostly on conservation of natural systems.

The Board consists of the President of the Fish and Game Commission, the Director of DFG, and the Director of the Department of Finance (PRC §1320). In addition, a Legislative Advisory Committee consisting of three members of the Senate and three members of the Assembly, meet with the Board to provide legislative oversight (PRC §1320).



The WCB receives an average of over \$40 million a year for land acquisition from a variety of sources including the State General Fund, bond acts, and partnerships with nonprofit, federal, local and other State agencies.<sup>14</sup>

Funding for different types of acquisition projects has largely been determined by the legislature and bond measures. WCB's enabling legislation reveals an emphasis on preserving lands for the protection and propagation of game animals and sport fish. Since the passage of the endangered species acts in the 1970s, much of WCB's acquisition funds have gone towards preserving threatened and endangered species habitat. In the last two decades Habitat Conservation Plans and Natural Communities Conservation Plans have become more widely used methods of preserving threatened or endangered species habitats, representing a shift towards more consolidated multi-species conservation methods. The Riparian Habitat Conservation Program of 1992 and the Inland Wetlands Conservation Program of 1991 represent a shift towards whole ecosystem conservation methods in the State.

### **Land Acquisition**

The WCB has the authority to acquire real property, rights in real property or water rights. It does not have the power of eminent domain except to provide right-of-way access to the ocean with the agreement of the relevant county. The WCB may authorize acquisition of interests in real property and water rights by means of gifts, purchases, leases, easements, transfer or exchange of property, transfer of development rights or credits, purchase of development rights, conservation easements, and other interests. The WCB can accept federal grant monies and can lease degraded habitat to nonprofit organizations or other agencies for restoration (FGC§1348). The WCB carries out its acquisition activities through its Land Acquisition Program, which uses acquisition priorities set by the DFG Lands Committee. The WCB also grants funds to other government and nonprofit entities to acquire property.

Requests for acquisition of specific parcels of land originate with citizens, legislators, public interests groups, federal, State and local agencies, and DFG staff. Sites are assessed by regional DFG staff with selection criteria based on ecological importance, rarity of species or habitat, connectivity with other protected lands, corridor or linkage value, threat from development, buffer from development, and the habitat conservation division's long range goals. At the State level, acquisition requests are reviewed by DFG Lands Committee, which evaluates properties based on local and Statewide biological importance, diversity of species, communities and trophic levels, viability or resilience, management constraints, maintenance costs, and restoration costs.

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<sup>14</sup> California State Auditor *California's Wildlife Habitat and Ecosystem*. June 2000.

The WCB partners with DPR and other agencies on their acquisitions at times. WCB also executes most of the acquisitions for the smallest State conservancies and regularly partners with the Coastal Conservancy on their acquisitions. The WCB also has extensive grant programs for nonprofit and local governments.

### **Public Access**

The WCB carries out a Public Access Program which funds acquisition of land as well as development of land for “wildlife-oriented” public access, usually through a local government sponsor. Projects have included fishing piers, boat launching ramps, and trails for fishing and hunting access (FGC §1350(a)). But these are a small part of WCB activities, in part because the projects depend on local governments being able and willing to maintain them.

Public recreation opportunities offered by other acquisitions include hiking, hunting, and nature observation, and may be the secondary purpose of an acquisition, where the primary purpose may be, for example, to create a wildlife corridor.

### **Special Acquisition and Restoration Programs**

The WCB Habitat Enhancement and Restoration Program funds projects recommended by DFG for the restoration of wetland and riparian habitat, threatened and endangered species habitat, and forestland habitat pursuant FGC §1350(c)).

The WCB also authorizes and allocates funds for DFG wetland acquisitions and restoration projects pursuant The Inland Wetlands Conservation Program (FGC §1400), created in 1991 to support the Central Valley Habitat Joint Venture. The WCB also administers the California Riparian Habitat Conservation Program (CRHCP) created in 1992 (FGC §1385) to protect, preserve, restore, and enhance riparian habitat.

### **Relationship with CCRISP**

The WCB may be the primary agency implementing CCRISP priority acquisition recommendations. It acquires high biodiversity lands, lands for outdoor recreation, and watershed lands. In addition, the WCB administers grant programs for restoring wetland, riparian, forestland, and threatened and endangered species habitats. The way WCB balances public access and the conservation of natural systems provides guidance for CCRISP’s outdoor recreation area of conservation.

## **California Department of Forestry and Fire Protection and the California Board of Forestry and Fire Protection**

CDF conserves the State's forest resources for production through regulating timber harvest. It also protects the State's wildlands from fires. Through regulation and its own fire suppression activities it can affect land management patterns in a large part of the State. It also invests in conservation and restoration of natural systems through private lands enhancement programs and manages a small number of State demonstration forests.

As outlined in the California Public Resources Code (PRC) the Department of Forestry and Fire Protection (CDF) is responsible for, "the fire protection, fire prevention, maintenance, and enhancement of the State's forest, range, and brushland resources, on non-federal lands, contract fire protection, associated emergency services, and assistance in civil disasters and other nonfire emergencies," (PRC §713). Under its fire protection duties, CDF is required to prepare a fire plan for the State (§PRC 4114).

Thus, CDF is focused on conservation for many different purposes. It manages conservation for production (timber harvests)' and it engages in fire management in order to promote conservation for both human use and production. However, this role sometimes leads CDF into conflict with the role of conservation for natural systems.

As early as 1880 there was concern in California over the management of the State's forest resources. Timber harvesting was ruining fisheries' and the growing demand for timber was seen by many to already be taxing the State's supply. In 1880 the Governor formed a commission to investigate the destruction of forests around Lake Tahoe. In part due to the commission's report, a Board of Forestry was established in 1885.

In 1911 the Board was given authority to regulate fire hazards on private lands, solidifying its fire protection role. In 1919 the first Forest Practice Act was passed and another was passed in 1945, which focused on minimum cutting diameters, snag disposal, and fire protection. But these regulations for the most part were not enforced. In 1927 the Division of Forestry was organized, and it was elevated to department status in 1977.

In 1970 a court of appeals invalidated the 1945 Forest Practices Act as unconstitutional because it delegated regulatory authority to a body that was monetarily interested. The Legislature had to come up with new legislation to regulate forest practices. The result was the 1973 Z'Berg-Nejedly Forest Practice Act, which requires timber harvest plans, or THPs, from private timber harvesters. In addition to encouraging sustainable forest harvest practices, the Act also required consideration of environmental and recreational concerns in THPs, although it was up to the Board to balance these interests.

Fire suppression techniques have evolved over time. A traditional philosophy of suppression of fires led to extremely flammable conditions and thick undergrowths that often suffocated certain plant species. CDF now has an extensive controlled burn program that more closely mimics the natural fire cycle. In addition, a growing awareness in the importance of watersheds has directed more of CDF's fire protection activities to protecting riparian resources during a fire and restoring them afterwards.

### **Board of Forestry and Fire Protection**

PRC §730 establishes the Board of Forestry, consisting of nine members appointed by the Governor and subject to confirmation by the Senate. Five members of the Board are required to be from the public, three from the forest products industry and one from the range and livestock industry (PRC §731). Pursuant PRC §740, "The board shall represent the State's interests in the acquisition and management of State forests as provided by law and in federal matters pertaining to forestry, and the protection of the State's interests in forest resources on private lands and shall determine, establish and maintain an adequate forest policy. General policies for guidance of the Department shall be determined by the Board." The Board also adopts rules and carries out a licensing program for professional foresters (PRC §759). The Board has the responsibility to review and approve the State Fire Plan (PRC §4114). The board is also required to establish rules for the preservation, protection, and use of State forests (PRC §4651).

Pursuant to the Forest Practice Act, the Board develops and adopts forest practice rules for each forest district (PRC §4551) and may adopt stricter resource conservation standards if necessary (PRC §4561). It is also required to promulgate soil erosion control regulations and adopt rules for controlling timber operations that threaten beneficial water uses (PRC §4562.5, 4562.7).

The Board is also required to appoint and consult with the Range Management Advisory Committee RMAC (PRC §741). RMAC primarily consists of range and brush landowners and works closely with the University of California to develop productive and sustainable rangeland management practices.

The composition of the Board of Forestry has been important in determining how far forest practice regulations will restrict commercial timber harvest activity. The Board establishes rules for THPs and Sustainable Yield Plans, in addition to preparing a Forest Resources Policy Statement based on a review of FRAP reports. However, the Policy Statement hasn't been revised since 1990.

### **State Fire Plan**

The Fire Plan is a cooperative effort between the Board and the Department. It aims to reduce the risk of wildfire and the costs wildfires impose. Development of the plan involves (1) developing wildfire safety zones to reduce risks from large fires, (2) assess levels of fire protection service that can be provided for various

types of lands (same levels of service must be provided for same types of land) (3) identify assets at risk (4) identify prefire management activities and (5) develop a fiscal framework for the wildland fire protection system. Assets at risk include air quality; range land; recreation lands; water and watersheds; structures; timber; and wildlife, habitat, plants, and ecosystem health. Prefire management activities include fuels reduction, ignition management, fire-safe engineering, and forest health. Through a new fire plan assessment system the plan identifies high-risk and high-value areas, ranks them in terms of priority needs, and prescribes what can be done to reduce future costs. The plan includes recommendations for changes in public policy.

### **Timber Harvest Plans**

CDF is responsible for enforcing the Z'Berg-Nejedly Forest Practice Act of 1973 (PRC §4511), which requires Timber Harvest Plans (THPs) to be prepared for commercial harvesting on non-federal timberlands and requires the Department to review THPs for compliance with the Act. The intent of the Act is, "to encourage prudent and responsible forest resource management calculated to serve the public's need for timber and other forest products, while giving consideration to the public's need for watershed protection, fisheries and wildlife, and recreational opportunities alike in this and future generations" (PRC §4512(c)).

### **Private Lands Productivity Enhancement**

CDF is mandated to administer the California Forest Improvement Program (CFIP) (PRC §4790) which offers cost-share opportunities to assist land owners with land management planning, conservation practices to enhance wildlife habitat, and practices to enhance productivity of the land. CDF receives federal funds for the Forest Legacy Program, which funds the acquisition of conservation easements to address ecosystem management issues. Federal dollars also support the Forest Stewardship Program, which assists communities with multiple-ownership watershed and community issues related to prefire fuels treatment, forest health, erosion control, and fisheries issues. CDF also administers the Timberland Productivity Act. Similar to the Williamson Act, it allows timber production zones to be assessed at a tax value based on timber yield as opposed to speculative value (CA Rev. and Tax Code Div. 2, Chpt.18.5).

### **Forest Rangeland Assessment Project**

The Forest and Rangeland Resources Assessment and Policy Act of 1977 (PRC §4789) requires CDF to assess the forest and rangelands of the State and to develop forest resource policies. Numerous concerns are required to be addressed. A full assessment is to be presented to the Secretary of Resources every five years.

## **State Forests**

Unlike the U.S. Forest Service, CDF is not a major landowner. CDF owns and manages eight Demonstration State Forests, totaling 71,000 acres, for the demonstration of good management practices, commercial timber production, public recreation, and research. PRC§4631 and §4648 outline the acquisition considerations for State forests, which are primarily for reforestation and demonstration of forestry practices. Most State forests were acquired in the 1940s. The last State forest to be acquired was in 1949 before the Soquel demonstration State forest in Santa Cruz was acquired in 1990. The Department also runs an Urban Forestry Program, pursuant PRC §7799.10, for the purpose of encouraging better tree management and planting.

## **Relationship with CCRISP**

CDF is mandated through the Forest Practices Act and the incentive programs it operates to improve the productivity and sustainability of forestlands for timber harvesting while considering other natural resources values. Timber harvesting on a sustainable basis is one of the originally recognized conservation activities and an area of stewardship identified by CCRISP. The Forest Practices Act addresses sustainability by requiring restocking with growing trees within five years of harvesting. It is beyond the scope of this report to evaluate the rulemaking and regulatory practices of agencies, including the implementation of the Forest Practices Act. Such an evaluation would include more insight into how the Forest Practices Act actually protects watersheds, biodiversity and natural variation of tree growth in forests.

CDF's fire protection mandates may lead to practices that conflict with conservation goals, such as cutting back valuable habitat adjacent to urban areas, although these activities should lessen the severity of fires when they occur. Other fire protection activities, such as controlled burns, may have some benefits to natural habitats.

Both CDF's Fire and Resources Assessment Program (FRAP) and the Fire Plan include huge resources of data and policy analysis expertise that could be helpful for CCRISP to draw on. The possibility of acquiring additional state demonstration forests may also support CCRISP goals although this may be restricted by political opposition to timber harvesting on conservation lands. However, there continues to be a need to demonstrate sustainable forestry practices and state forests fulfill this role for owners of small parcels of timberland not subject to the highest levels of forest regulation. Protecting forest lands for both sustainable timber value and protection of forest ecosystems is a core mandate of CDF and several private lands enhancement programs support that. These private forest plans are most successful when they are updated and monitored for continued compliance with agreements.

CDF is involved in protecting watersheds through its fire protection mandate. It is concerned with reducing soil erosion and invasive species after a fire. And the

Forest Stewardship program supports watershed planning efforts. Under the Board of Forestry, the Range Management Advisory Committee is working on a number of watershed and rangeland protection measures.

Complementing CCRISP's interest in protecting sites with significant natural historical value, CDF has an archeology program and THPs require review of archeological resources. CDF also has a large urban forestry program, which supports CCRISP urban open-space goals.

### **Department of Parks and Recreation and the California Parks and Recreation Commission**

The Department of Parks and Recreation preserves natural lands and cultural resources and provides facilities and programs for recreational uses through additions to the state park system. From the beginning, DPR has focused on preserving the state "crown jewels," while providing for human use. Increasingly, DPR has focused its efforts on the conservation of connected ecosystems as well as "crown Jewels."

The Strategic Vision of California State Parks, published in 1999, includes a concise summary of Department of Parks and Recreation legal mandates. The Department is required, "[to] administer, protect, provide for recreational opportunity, and develop the State Park System; to interpret the values of the State Park System to the Public; to operate the Off -Highway Motor Vehicle Recreation Program; to administer the California Historical Resources Protection Program; and to administer federal and State grants and bonds to local agencies." As of 1999 the Department of Parks and Recreation holds 1,400,000 acres of land, of which 1,200,00 acres is with fee title.

The parks system was created in 1927. In 1928 the new State Parks Commission hired Fredrick Law Olmstead, son of the designer of New York's Central Park, to develop a survey of lands suitable for State parks. Olmstead's survey aimed at preserving outstanding specimens of various landscapes. His plan guided acquisition for years and reflected DPR's early mandate of preserving outstanding examples of natural landscapes.

In the 1960s the Division of Beaches and Parks merged with the Division of Recreation and soon became the Department of Parks and Recreation. Similarly, the Park Commission and the Recreation Commission were merged into the State Park and Recreation Commission. A shift in management towards more active recreation facilities occurred.

In the early 1980s a report entitled *Stewardship* focused on the threats to natural values in the State park system and led to increased funding being directed to resource management and restoration efforts. With the passage of ESA and CESA in the 1970s DPR became involved with endangered species recovery

plans on State park lands and it now has monitoring programs to track endangered species in parks. Now almost half of DPR's habitat acquisition efforts are directed at establishing links and corridors between existing protected areas and contributing to regional conservation efforts.

### **State Parks and Recreation Commission**

The State Parks and Recreation Commission is made up of nine members appointed by the Governor (PRC §530). The Commission is mandated to establish general policies for administration, protection, and development of the State park system (PRC §539). It is also required to formulate and recommend a comprehensive recreation policy for the State to the Director (PRC §540). In addition, it is required to report annually to the Governor, through the Director, on the programs and activities of the State park system and make recommendations for programs and activities to meet future recreational needs (PRC §535).

### **State Park Units**

DPR may acquire title or any interest in real property, "which the department deems necessary or proper for the extension, improvement, or development of the State park system" (PRC §5006). Prior to classifying a unit, the department must prepare an "inventory of the unit's scenic, natural, and cultural features, including, but not limited to, ecological, archaeological, historical, and geological features" (PRC §5002.1). This inventory is then considered by the DPR in classifying a unit. There are eight classification categories: State parks, State recreation units, Historical units, State seashores, State reserves, State wildernesses, Natural preserves, and Cultural preserves (§5019.53 – 5019.74). The last three units are subunits of the first five.

State parks are areas of outstanding scenic or natural character. "The purpose of State parks [is] to preserve outstanding natural, scenic, and cultural values, indigenous aquatic and terrestrial fauna and flora, and the most significant examples of such ecological regions of California..." (PRC §5019.53). Management and improvements on State parks must be made in a manner that protects the native environment to the "extent compatible with the primary purpose for which the park was established" (PRC §5019.53).

State recreation units, "consist of areas selected, developed, and operated to provide outdoor recreational opportunities" (PRC §5019.56). Environmental factors must be "considered" in designing recreation units.

Historical units are established, "primarily to preserve objects of historical, archaeological, and scientific interest, and archaeological sites and places commemorating important persons or historic events" (PRC §5019.59).



State seashores consist of spacious coastline areas. "The purpose of State seashores [is] to preserve outstanding, natural, scenic, cultural, ecological, and recreational values of the California coastline as an ecological region and to make possible the enjoyment of coastline and related recreational activities which are consistent with the preservation of the principal values..."(PRC §5019.62).

State reserves are areas with outstanding natural or scenic characteristics of statewide significance. "The purpose of a State reserve is to preserve its native ecological associations, unique faunal or floral characteristics, geological features, and scenic qualities in a condition of undisturbed integrity." (PRC §5019.65) State reserves are available to the public on a day-use basis only. Living and nonliving resources in the reserves cannot be disturbed or removed.

State wildernesses consist of State-owned or leased land which have been minimally disturbed by human influence. Normally, wilderness areas must exceed 5,000 acres (PRC 5019.68).

Natural preserves consist of areas of outstanding natural or scientific significance within the boundaries of other State park system units. The purpose of natural preserves is to preserve rare or endangered plant and animal species, representative examples of California's native plant or animal communities, significant geological features, significant fossils, or unique biogeographical patterns. Where possible, natural preserves should be large enough to allow, "the natural dynamics of ecological interaction to continue without interference..." (PRC §5019.71).

Cultural preserves are established, "for the purpose of protecting such features as sites, buildings, or zones which represent significant places or events in the flow of human experience in California" (PRC §5019.74).

Once a unit is classified the department must develop a general plan that defines, "the proposed land uses, facilities, concessions, operation of the unit, any environmental impacts, and the management of resources, and shall serve as a guide for the future development, management, and operation of the unit" (PRC §5002.2). The commercial exploitation of resources in the State park system is prohibited (PRC §5001.65). In addition, pursuant PRC §5003, "The department shall administer, protect, develop, and interpret the property under its jurisdiction for the use and enjoyment of the public." DPR can establish rules to limit public attendance to parks, specifically through an established "carrying capacity" (PRC§ 5001.96) based on the unit's classification, i.e. State recreation unit versus State reserve.

## **Historical Resources**

Within DPR, the State Historical Resources Commission evaluates nominations by the State Office of Historic Preservation, for listing on the National Register of Historic Places and administers the California Register (PRC §5020.4). A Historical resource includes any, "object, building, structure, site area, place, record, or manuscript which is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California" (PRC §5020.1). Criteria for listing resources on the California Register of Historical Resources are outlined in PRC §5024.1.

## **Recreation Trails**

DPR is mandated to develop and operate a statewide system of recreation trails including hiking, bicycling, equestrian trails, boating trails, cross-country trails, heritage corridors, and trails for the disabled (PRC § 5070.7).

## **Off-Highway Motor Vehicles**

In order to manage the deleterious impacts of off-road vehicles and expand existing facilities for the popular sport, the legislature created the Off-highway Motor Vehicle Recreation Program. The facilities are distinct and separate units in the park system. The program was mandated to have equal priority among other programs in DPR (PRC §5090.02).

## **DPR Land Management and Conservation of Natural Systems**

In interpreting its mandate to protect the State's natural resources, DPR has initiated several efforts aimed at the threats of habitat fragmentation, conversion, and exotic species invasion. DPR is currently developing connectivity models and monitoring its holding for wildlife corridors. DPR was active in planning and key acquisitions for the recent Chino Hills/Santa Ana Mountains Wildlife Corridor and the Coal Canyon Wildlife Corridor. DPR also develops management agreements with agencies holding neighboring land to increase quality habitats. Threats from incompatible land uses on private lands abutting State parks has increasingly led DPR to respond to local government land use actions. DPR also has established an extensive invasive species reduction program. Under Governor Davis, DPR has also begun to focus more on opportunities for state parks in urban environments.

For each unit in the State park system a general plan must be completed which gives a broad outline of the purpose of the park. Then a detailed management plan is developed. The code mentions developing "carrying capacities" for state park units to limit the adverse impacts of public use. In practice, resource areas within a park unit are ranked on levels of sensitivity. Public uses are directed

away from more sensitive areas, for example through signs or the placement of trails or through active management of public use in sensitive areas.

### **Relationship with CCRISP**

DPR is mandated to manage its property for preservation as well as the use and enjoyment of the public. Conflicts may arise when public use adversely impacts sensitive ecosystems. Although, both values are part of the overall scope of CCRISP, and DPR addresses these conflicts on a daily basis.

DPR's mandates complement many of CCRISP's areas of conservation. The State park system can include high priority biodiversity lands, forest lands, natural lands for recreation, sites with natural historical value, critical watersheds, and urban open-space. In addition, DPR's invasive species reduction program, its natural resource monitoring and health assessment program (evaluated in the "resource assessment case studies report to be issued in June) and its connectivity and corridor research could lead CCRISP efforts in these areas.

### **Department of Conservation**

Pursuant to its enabling legislation, the Department of Conservation is to be divided into at least four divisions that serve to reflect its mandated responsibilities; Division of Mines and Geology; Division of Oil, Gas, and Geothermal Resources; Division of Land Conservation (now called the Division of Land Resource Protection); and a Division of Recycling (PRC §607).

Given this charge, DOC is primarily involved in conservation for production – that is, conservation of working landscapes. On farmland, it focuses primarily on conserving farmland for the purpose of production, rather than for the benefit of natural systems. The Department does assist in watershed protection through some programs and also evaluates natural hazards.

### **Farmland Conservation**

The Department of Conservation's Division of Land Resource Protection administers two important incentive programs for the preservation of agricultural land. The California Land Conservation Act, also known as the Williamson Act (Govt. Code §51200) was passed in 1965 to preserve, through tax incentives, farmland pressured by spiraling land valuation and tax increases associated with suburban growth. Farmland enrolled in the program is assessed at farmland value, as opposed to the Proposition 13 valuation; and, through the Open Space Subvention Act, counties are substantially reimbursed for lost property tax revenue. Approximately 16 million acres of farmland (about 50% of the State's total farmland) are enrolled in the program.

The California Farmland Conservancy Program (CFCP) was created in 1996 (PRC §10200) and provides grant funding for agricultural conservation easements. Although the easements are always written to reflect the benefits of multiple resource values, there is a provision in the CFCP statute that prevents easements funded under the program from restricting husbandry practices. This provision could prevent restricting those practices to benefit other natural resources.

The Department also administers the Farmland Mapping and Monitoring Program (FMMP) (Gov. Code §65570, PRC §612). The FMMP was established in 1982 to assess the location, quality, and quantity of agricultural lands and conversion of these lands over time.

### **Resource Conservation Districts**

The Department of Conservation assists Resource Conservation Districts (RCDs), "special districts" of the State set up to be locally governed agencies with their own locally appointed or elected, independent boards of directors. Conservation Districts were established for the purposes of, "soil and water conservation, the control of runoff, the prevention and control of soil erosion, and erosion stabilization, including, but not limited to, these purposes in open areas, agricultural areas, urban development, wildlife areas, recreational developments, watershed management, the protection of water quality and water reclamation, the development of storage and distribution of water, and the treatment of each acre of land according to its needs" (PRC §9001).

### **Soil Conservation**

The PRC includes several sections pertaining to soil conservation in the State, requiring the Department of Conservation to prepare a Soil Conservation Plan and implementation plan, and to advise Resource Conservation Districts and local governments on soil conservation strategies. A 1987 Soil Conservation Plan report was produced, but no active soil conservation program is presently funded. RCDs are presently involved in soil surveys and nutrient education however.

### **Mines and Geology**

Within the Department of Conservation, the Office of Mine Reclamation was created in 1991 to administer the Surface Mining and Reclamation Act of 1975 (SMARA). The purpose of the Act is to regulate surface mining operations to assure that, "adverse environmental effects are prevented or minimized and that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses. The production and conservation of minerals are encouraged, while giving consideration to values relating to recreation,

watershed, wildlife, range and forage, and aesthetic enjoyment. Residual hazards to the public health and safety are eliminated” (PRC §2712).

The State Mining and Geology Board establish regulations for carrying out SMARA (PRC §2755). The Board was created to, “represent the State's interest in the development, utilization, and conservation of the mineral resources of the State and the reclamation of mined lands, as provided by law, and federal matters pertaining to mining, and shall determine, establish, and maintain an adequate surface mining and reclamation policy. The board shall also represent the State's interest in the development of geological information necessary to the understanding and utilization of the State's terrain, and seismological and geological information pertaining to earthquake and other geological hazards. General policies for the division [of Mines and Geology] shall be determined by the board” (PRC §672).

### **Oil, Gas and Geothermal Resources**

The Division of Oil, Gas, and Geothermal Resources regulates statewide oil and gas activities pursuant to PRC §3000.

### **Relationship with CCRISP**

None of the Department of Conservation’s mandates conflict with CCRISP. However, as with other departments, the mandates of the DOC highlight the potential conflict within CCRISP between conservation for production and conservation of natural resources.

The DOC’s farmland preservation activities and expertise complements CCRISP’s objective of conserving prime farmland and the Farmland Mapping and Monitoring Program could be a substantial base for creating CCRISP agricultural land maps. DOC’s assistance in watershed planning also supports CCRISP goals of protecting critical watershed values.

### **California State Lands Commission**

The State Lands Commission was established in 1938 with the authority to protect and manage the State’s public trust resources and was given jurisdiction over the issuance of permits and leases for oil and gas development of all State-owned property. The State Lands Commission also issues permits for a variety of other commercial purposes on State lands. The Commission includes the Lieutenant Governor, the State Controller, and the State Director of Finance.

The State Lands Commission conserves public trust lands for natural areas and human use, but, like other State agencies, is focusing more on protection of natural systems, though it has few statutory mandates (other than following CEQA) to do so.

## **Public Trust Lands**

The Commission has jurisdiction over all public trust lands defined as, “all ungranted tidelands and submerged lands owned by the State, and of the beds of navigable rivers, streams, lakes, bays, estuaries, inlets, and straits, including tidelands and submerged lands or any interest therein” (PRC §6301). The Commission also has jurisdiction over “school lands” that were granted to California by Congress to benefit public education. The revenue from school lands is required to support the State Teachers’ Retirement System. Along the coast the Public Trust reaches three miles out to sea and up to the mean high tide line on land. The State also owns a public trust easement on navigable waterways between the ordinary low and high water mark, where private property owners may use the land in a way “not inconsistent with public trust needs.” Many public trust lands have been legislatively granted to cities and counties, most notably the major ports of California. The Commission monitors granted lands to ensure compliance with the terms of the grant, which generally requires that development be consistent with the public trust.

The Commission is mandated to maintain public access to State waters (PRC §6210.4, §6210.9 and The California Constitution Article 10 Section 1). The Commission may exchange lands in limited circumstances, where to do so would benefit the public trust (PRC §6307).

## **Public Trust Uses**

The Public Trust Doctrine has historically reserved public trust lands for uses related to commerce, navigation, and fisheries. Later court rulings added hunting, fishing, swimming and recreational boating, and scientific research. The 1971 court decision in *People ex rel. Baker v. Mack*, (19 Cal.App.3d 403) extended public trust uses to include, “preservation of those lands in their natural State” in order to protect scenic and wildlife habitat values.

A 1983 California Superior Court ruling in *National Audubon Society v. Superior Court of Alpine County* held that the State has, “an affirmative duty to take the public trust into account” in making decisions that affect public trust resources and that the State must maintain supervision over the affected resources. The State Lands Commission upholds this mandate in considering uses of public trust lands and cooperates with other agencies having authority over public trust resources.

The public trust doctrine allows for many uses that traditionally adversely impact the environment, such as industrial, and the expansion of the doctrine to include wildlife values has not proved overwhelming. Usually requests are evaluated for their environmental impacts through the CEQA process, and mitigation measures are imposed. If the proposal is in another agency’s jurisdiction, the project will

have to get approval from that agency as well, for example the Coastal Commission or a RWQCB, which may have more specific environmental requirements. Some leases are even for environmental reasons—the DFG has leased public trust lands for habitat purposes.

### **Leases**

The Commission has the authority to lease public trust lands and school lands (and may, in limited circumstances, sell school lands) and to provide for the extraction of minerals and oil and gas from public trust lands (PRC §6216). The Commission also has the authority to lease State-owned lands other than public trust lands for oil and gas drilling (PRC §6827). Each lease must contain terms and conditions to ensure the best interests of the State (PRC §6501.2). Permits and leases consistent with the public trust include, marinas, dredging, mining, oil and gas and geothermal development, industrial wharves, and tanker anchorages.

### **Kapiloff Land Bank**

The Commission is a trustee of the Kapiloff Land Bank Fund. The fund was created by the legislature to facilitate title disputes involving trust lands and wetland mitigation measures. These measures are imposed as a condition of a permit for a project that would adversely impact wetlands (PRC §8601).

### **Other Mandates**

The Commission is mandated to administer the Shipwreck and Historic Maritime Resources program, and has jurisdiction over ship salvage operations (PRC §6309). The Commission is also mandated to inspect marine facilities and monitor their operations to prevent oil spills. PRC §6357 authorizes the Commission to establish the ordinary high or low water mark to establish boundaries when necessary.

### **Environmental Inventory**

In 1970 legislation was passed requiring the Commission to inventory public trust lands which possess significant environmental values of statewide significance, and to adopt regulations to assure their permanent protection (PRC §6370). Pursuant this requirement the Commission published an inventory in 1975, which is referred to in reviewing project proposals, although the Commission relies primarily on other environmental laws such as CEQA. The inventory has not been updated.

## **Relationship with CCRISP**

The Public Trust Doctrine is a slowly evolving doctrine and the preservation of lands in their natural State is a relatively new public trust use. This use competes with other well-established public trust uses, such as the promotion of commerce, which may conflict with CCRISP objectives.

The State Lands Commission manages for the State ungranted public trust lands. It has great discretion as to how these lands are used and to the extent that it begins to emphasize ecological public trust uses it may complement CCRISP well. Updating the environmental inventory could be one way to bring the ecological value of public trust lands to the fore and may help in CCRISP mapping activities.

## **State Conservancies**

The seven California Conservancies were legislatively created to protect and preserve distinct regions of the State. They are empowered to acquire land to preserve and restore habitat and ecosystems, and provide recreational opportunities in these regions.

The State conservancies are given broad powers to conserve land and natural resources in defined geographical regions of statewide significance. Most conservancies have a direct mandate to provide recreation and education activities. Thus, they are engaged in conservation for human use, though they often also seek to conserve natural systems as well. Conservancies are especially involved in watershed conservation. Many conservancies are formed along rivers and focus their acquisition on riparian habitats.

## **Tahoe Conservancy**

The Tahoe Conservancy was established in 1984 (Chapter 1239 of the Statutes of 1984) and carries out eight major programs: acquisition of environmentally sensitive land, erosion control grants, restoration of stream environment zones, land coverage mitigation and Transfer of Development Rights, enhancement of public access and recreation, wildlife enhancement, management of acquired lands, and promotion of forest ecology.

The conservancy may acquire interests in land through, "land exchanges and is authorized to enter into all alternatives to the acquisition of fee interests in land, including, but not limited to, the acquisition of easements, development rights, life estates, leases, and leaseback agreements" (PRC §66907.1).

In the Lake Tahoe region, the Tahoe Regional Planning Agency (TRPA) is a regional planning body. It is mandated to establish policies and programs to maintain threshold levels of environmental quality in accordance with the Tahoe



Regional Planning Compact (CA. Gov. Codes §66800). In order to maintain environmental quality in the region the TRPA has enacted an Environmental Improvement Program (EIP), which includes specific projects to be carried out by various agencies with jurisdiction in the area. The Tahoe Conservancy is currently responsible for implementing 140 projects under the Program. The Tahoe Conservancy holds and manages 5,790 acres of land. However, the Tahoe Conservancy is also permitted to assess the need for mitigation and obtain mitigation land in certain circumstances under a memorandum of understanding with TRPA.

### **The Coastal Conservancy**

The Coastal Conservancy was created in 1976 pursuant the California Coastal Act (PRC §31000) to, “purchase, protect, restore, and enhance coastal resources, and to provide access to the shore.” It has jurisdiction over the “coastal zone” as described in PRC §31006, generally, three miles out to sea and 1,000 yards inland from the mean high tide line. In 1982 its jurisdiction was expanded to include the San Francisco Bay and associated lands. In 1984 its jurisdiction was further expanded to allow it to undertake projects in coastal watersheds that protect coastal resources. In 1998, regional projects in the San Francisco Bay area were added under its jurisdiction.

The Conservancy serves as a repository for lands whose reservation is required to meet the objectives of the California Coastal Act, a certified local coastal plan, or the San Francisco plan of the Bay Conservation and Development Commission (BCDC) (PRC §31104.1). It may grant funds to nonprofits and State agencies (PRC §3116-5).

The Conservancy has the authority to report to the Director of General Services regarding privately held lands in the coastal zone with special significance for coastal resources, which might be traded for lands owned by the State (PRC §31104.1). This authority has rarely, if ever, been acted on.

Coastal Conservancy goals, based on priority coastal uses in the Coastal Act, include, improving public access to the coast, creating low-cost accommodations, and protecting coastal wetlands and watersheds. It also aims to restore urban waterfronts for coastal dependent industries, resolve land use conflicts, protect agricultural lands, and acquire environmentally valuable coastal lands. The Coastal Conservancy holds and manages 4,230 acres of land, all but 600 acres of which are easements.

### **Santa Monica Mountains Conservancy**

The Santa Monica Mountains Conservancy (SMMC) was created in 1979 (PRC §33000). Its mission is to, “strategically buy back, preserve, protect, restore, and enhance treasured pieces of Southern California to form an interlinking system of

urban, rural, and river parks: open space: trails: and wildlife habitats that are easily accessible to the general public.”

The SMMC has jurisdiction over the Santa Monica Mountains Zone as defined in PRC §33105. It also has jurisdiction in portions of the coastal zone for which a local coastal program has been certified for the park, recreation, conservation, and open-space provisions of the plan (PRC §33201). It is mandated to coordinate access for the Rim of the Valley Trail Corridor (PRC §33204) and to provide recreation access programs from downtown Los Angeles and the inner city to provide recreation opportunities for residents there (PRC §33204).

The SMMC works closely with the Mountains Recreation and Conservation Authority and other joint powers authorities pursuant the Joint Exercise of Powers Act, which affords it special flexibility and ability to leverage funds for land acquisitions. The Conservancy is empowered to make loans or grants to other governmental entities for restoration, the creation of buffer zones, or acquisition of parkland (PRC §33204). The SMMC holds 11,100 acres, all of which are managed by other entities.

### **The San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy**

The San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (RMC) has jurisdiction over those areas pursuant the 1999 enabling act (PRC §32600) to acquire and manage public lands for open space, low-impact recreational uses and watershed improvements; to preserve the rivers consistent with existing flood control project; and to provide recreational and educational experiences (PRC §32602). The RMC is currently developing an Open Space Plan to direct its activities.

### **The Coachella Valley and Mountains Conservancy**

The Coachella Valley and Mountains Conservancy was created pursuant PRC §33500 in 1991 to, “acquire and hold, in perpetual open space, mountainous lands surrounding the Coachella Valley and natural community conservation lands within the Coachella Valley, and to provide for the protection of wildlife resources on, and the public's enjoyment of, and the enhancement of their recreational and educational experiences on, those lands in a manner consistent with the protection of the lands and the resource values specified in Section 33500” (PRC §33501). The Coachella Conservancy is currently leading a Natural Communities Conservation Plan effort for the region. The Conservancy holds and manages 2,760 acres, almost half of which are easements.<sup>15</sup>

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<sup>15</sup> Conservancy land holdings statistics as of December 1999. California State Auditor *California's Wildlife Habitat and Ecosystem*. June 2000

### **The San Joaquin River Conservancy**

The San Joaquin River Conservancy was established, “to acquire and manage public lands within the San Joaquin River Parkway... to provide a harmonious combination of low-impact recreational and educational uses and wildlife protection through the preservation of the San Joaquin River, existing publicly owned lands, the wildlife corridor, and natural reserves” (PRC §3251. The jurisdiction of the conservancy includes 5,900 acres on both sides of the river in Fresno and Madera County. The Conservancy has the authority to acquire real property or interest in real property and may award grants to other governmental and nonprofit entities (PRC §32532, 32537).

### **The Baldwin Hills Conservancy**

The Baldwin Hills Conservancy was created in 2000 to, “develop and coordinate an integrated program of resources stewardship so that the Baldwin Hills area is managed for its optimum recreational and natural resource values based upon the needs and desires of the surrounding community” (PRC §32550). The Conservancy is mandated to restrict access on its lands as required for the protection of public health and safety and for resource protection (PRC §32572). It is also mandated to determine acquisition priorities (PRC §32572). The Conservancy may award grants to local government agencies and nonprofits (PRC §32568).

### **Relationship with CCRISP**

The State conservancies were created because the legislature recognized a statewide interest in protecting and enhancing the natural resources in the areas their jurisdictions cover. In a sense, they complement CCRISP as being existing priority conservation areas. Although, this could also conflict with the weighting of statewide environmental values in CCRISP.

The conservancies have broad authorities and efficient acquisition practices. The State conservancies also have detailed data about the areas in their jurisdiction that could assist CCRISP mapping and valuation efforts. In addition, they often have valuable experience in coordinating cooperation between the various agencies with conservation mandates. In the areas of stewardship identified by CCRISP, the conservancies are working to conserve high priority biodiversity lands, forest lands, lands for outdoor recreation and education, sites with significant natural historical value, critical watershed values, and urban open-space values.

### **Department of Water Resources**

The Department of Water Resource (DWR) was created in 1956, unifying several disparate agencies working on State water policy at the time, to have a single agency plan and guide the development of the State's water resources (SWC §123). DWR is required to prepare and update the California Water Plan to manage the State's water resources and prepare for growth; to plan and operate the State Water Resources Development System to supply water for multiple uses including the support of wildlife and fisheries; to protect and restore the Sacramento-San Joaquin Delta; and to regulate dams and provide flood protection. DWR has the authority to acquire property necessary for State water purposes and may do so by eminent domain (SWC §250).

In this sense, DWR's traditional mission has been focused on conservation for human use (by providing water to urban users and recreational opportunities around its reservoirs and other holdings) and conservation for production (by providing water for agriculture). However, DWR does attempt to reconcile these roles with attempts to conserve natural systems as well. Since 1961, DWR has been legally mandated to manage its operations in a way that preserves fish and wildlife (SWC §11900-11901). By the mid 1980s DWR projects began to reflect heightened mitigation efforts in cooperation with DFG. At the same time, bond acts began to be passed supporting water conservation and some restoration projects.

There is a California Water Commission although its primary role is to represent the State's water interests to Congress and to advise on Army Corps of Engineers projects. Bond measures have had a profound role in directing DWR local assistance programs.

DWR participates in the California Interagency Floodplain Management Coordination Group that develops strategies and procedures to encourage local governments to begin implementing a multi-objective approach to floodplain management. A new floodplain management element was recently incorporated into the State General Plan to begin to implement this approach.

### **California Water Plan**

The DWR is mandated to update the California Water Plan every five years. The plan is to provide for an, "orderly and coordinated control, protection, conservation, development, and utilization of water resources in the State" and must include assessment of current and projected water needs and provide strategies to meet those needs (SWC §10004).

The State Water Plan assesses California's water supplies and demands for ten hydrologic regions. In the case of deficiencies, water management options are identified. Water purveyors, including local water agencies, which provide about 70% of the State's water supply, make the decisions as to what options to implement.

## **State Water Project (SWP)**

In 1960 voters approved the Burns-Porter Act, a bond issue to build the SWP, which was designed and built by the DWR. The SWP is a water storage and delivery system of reservoirs, aqueducts, power plants, and pumping plants, operated by the DWR.

## **Flood Control**

DWR is empowered to make plans to regulate and control floodwaters in the State (SWC §8300). It may review local applications for FEMA insurance and provide assistance to local public agencies on flood management plans (SWC §8326). These activities are carried out by the Department's Floodplain Management Branch. When funds are appropriated, the Department administers reimbursement for the cost of lands, easements and rights of way for federal flood control projects not administered by the State Reclamation Board.

The Reclamation Board, which is within the Department, has the primary responsibility for flood control in the San Joaquin and Sacramento Valleys, including the acquisition of land and certain regulatory functions. (SWC 8551, 12878-128789.4) When funds are appropriated, the Department administers reimbursement for the cost of lands, easements, and rights of way for federal flood control projects not administered by the State Reclamation Board. The Reclamation Board, which is within the Department, has the primary responsibility for flood control in the San Joaquin and Sacramento Valley, including the land acquisition (SWC 8551, 12878-12789.4).

## **Dam Safety**

The DWR is mandated to, "supervise the construction, enlargement, alteration, repair, maintenance, operation and removal of dams and reservoirs meeting jurisdictional sizes for the protection of life and property...." except on dams owned by the U.S. (SWC§6075). Within the DWR, the Division of Safety of Dams carries out this mandate pursuant to SWC §6000-6501 and the CCR §301-333.

## **Area of Origin Protections**

The area of origin provisions of the Water Code require that the construction and operation of elements of the State Water Project do not deprive the affected watershed of the prior right to water required to supply the beneficial needs of the watershed area (SWC §11460). The area of origin provisions also apply to the Federal Central Valley Project (SWC 11128). Similarly, County of Origin Law (SWC 10505) reserves water supplies for the present and future development of counties where the water originates. These statutes were enacted in the early 1930's as the State began planning for water development projects.

## **Protection of Fish and Wildlife**

The Davis-Dolwig Act of 1961 mandated that State water project facilities be constructed in a manner consistent with the full utilization of their potential for the enhancement of fish and wildlife and for recreation. It creates a multipurpose use function for State water projects that includes the preservation of fish and wildlife and the provision of public recreation facilities (SWC §11900-11901). SWC §12841 provides for similar policies for flood control and watershed protection projects.

In 1987 the DWR, USBR, DFG, and the Suisun Resource Conservation District signed the Suisun Marsh Preservation Agreement to protect what is the largest estuarine marsh in the U.S. Under the Agreement DWR is responsible for maintaining a dependable supply of quality water for the marsh and controlling water salinity.

## **Local Assistance Programs**

Several bond acts have established loans and grants programs administered by DWR for local water conservation and urban streams restoration projects. These acts are the Water Conservation Bond Law of 1988 (Proposition 82); the Safe, Clean, Reliable Water Supply Act of 1996 (Prop. 201); and the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act of 2000 (Prop. 13). Programs include, flood protection corridors, agricultural water conservation, groundwater recharge and storage facilities, and urban water conservation. In addition, the Davis-Grunsky Act of 1960 continues to provide loans for agricultural water conservation and grants for recreation and wildlife enhancement.

## **Other Mandates**

The Delta Protection Act of 1959 (not the land use act of 1992) requires the State Water Project to provide salinity control in the Delta, along with an adequate water supply for water users in the Delta.

The Agricultural Water Suppliers Efficient Management Practices Act of 1990 required DWR to offer assistance to agricultural water suppliers seeking to improve the efficiency of their water management practices. An advisory committee developed a MOU to implement efficient practices and to establish the Agricultural Water Management Council, which had its first meeting in 1997 after 15 suppliers signed the MOU.

## **Relationship with CCRISP**

DWR implements the provision of water for various uses, while the SWRCB has the authority to balance these uses. State Water Project activities, such as the construction of dams and DWR's flood control practices, have historically been detrimental to natural ecosystems though the department is legally mandated to reconcile these conflicts. DWR can and is incorporating a broader view of sustainability in water planning.

Laws have increasingly introduced DWR mandates to design and operate State Water Project facilities to be more environmentally friendly. CALFED agreements have also greatly influenced the daily operation of the State Water Project to maximize fishery protection. In addition, DWR in cooperation with the Army Corps of Engineers has developed strategies for multi-purpose floodplain management to restore many aspects natural river ecosystems, in a Sacramento and San Joaquin River Basins Comprehensive Study. DWR also undertakes agricultural drainage treatment studies. To the extent that DWR will increasingly emphasize these multipurpose objectives, it will complement CCRISP.

## **State Agencies Outside the Resources Agency**

### **State Water Resources Control Board**

Although not in the Resources Agency, the SWRCB has great influence over the protection of watersheds, and water quality and quantity for fish and wildlife. In creating the SWRCB in 1967, the Legislature defined its purpose as to, "exercise the adjudicatory and regulatory functions of the State in the field of water resources.... [and] to combine the water rights and the water pollution and water quality functions of State government" (SWC §174). The SWRCB consists of five members appointed by the Governor (SWC §175). The Board has the authority to issue permits for the appropriation of State water (except percolating groundwater, riparian water "first in time" rights, and water rights established before 1914), and to exercise water pollution and quality control functions (SWC §179, §1000 et. seq.).

There are also nine Regional Water Quality Control Boards (RWQCB), which are responsible for implementing water quality control programs at the local level. Each RWQCB has nine part-time Members also appointed by the Governor and confirmed by the Senate. RWQCBs develop regional water quality control plans for their hydrologic areas, issue waste discharge permits, take enforcement action against violators, and monitor water quality.

The SWRCB is primarily a regulatory and adjudicatory body. It does direct investments through certain grant programs such as watershed planning grants. It also funds wastewater treatment plants and water-recycling facilities through grant and loan programs. Its role in the State's conservation efforts is in conserving water for production, human use, and as a natural system.

## **Appropriation of Water**

The SWRCB issues water rights permits to the Department of Water Resources (DWR) for the operation of the State Water Project. In doing so it reserves jurisdiction to revise the terms and conditions relative to salinity control, effect on vested rights, and fish and wildlife protection. Several sections of the Water Code guide SWRCB's water appropriation decisions. The Board is mandated to allow appropriation of unappropriated water for beneficial purposes under conditions that will, "best develop, conserve and utilize the public interest" (SWC §1255). In determining the public interest, the Board must consider the California Water Plan, prepared by the DWR (SWC §1256). Beneficial uses include, but are not limited to, "domestic, irrigation, municipal, industrial, preservation and enhancement of fish and wildlife, recreational, mining and power purposes..." (SWC §1257). SWC §1254 establishes that, in acting upon applications to appropriate water, the SWRCB will be guided by the policy that domestic use is the highest use and irrigation is the next highest use. In granting water appropriation permits, the Board must also consider stream flow protection requirements proposed for fish and wildlife pursuant §10001 of the PRC (SWC §1257.5).

The California Supreme Court decision in *National Audubon Society v. Superior Court of Alpine County* held that public trust uses must also be considered when rights to divert water away from navigable water bodies are considered. Consequently the SWRCB must consider public trust needs (navigation, commerce, fishing, protection of fish and wildlife, scientific study and scenic enjoyment) with other beneficial uses of water.

Article X, Section 2 of the California Constitution, requires that all uses of the State's waters be reasonable and beneficial. It also prohibits the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water. In addition, Water Code §275 requires DWR and SWRCB to "take all appropriate proceedings or actions before executive, legislative, or judicial agencies to prevent waste or unreasonable use of water." SWRCB has acted on this authority in ordering the Imperial Irrigation District to adopt a water conservation plan.

## **Water Quality**

The Porter-Cologne Water Quality Control Act of 1969 is California's water quality control law and establishes a water quality regulatory program (SWC Div. 7 §13000 et. seq.). The Act requires the SWRCB to formulate and adopt overall State policy for water quality control (SWC §13140). It also requires the State's Regional Water Quality Control Boards (RWQCBs) to adopt regional water quality control plans, which are subject to SWRCB approval. Under the plans, dischargers into the State's waters must seek a permit with the RWQCBs. The



Porter-Cologne Act gives the RWQCBs the authority to implement the federal Clean Water Act, including §402 National Pollutant Discharge Elimination System (NPDES) permits (SWC §13370).

SWRCB is mandated to prepare a program to implement the State's nonpoint source management plan by February 2001 (SWC §13369). In addition, AB 982 of 1999 created an advisory group to evaluate the State's effectiveness in implementing the water quality attainment strategies (known as the TMDL program), which is necessary to comply with federal Clean Water Act §303(d). The bill also requires the group to design a proposal for a comprehensive surface water quality monitoring program (SWC §13191-2).

SWRCB is also mandated to set water quality standards for the Delta, which was aided by a stakeholder participation process in cooperation with CALFED in 1995.

### **Other Implementation Practices Significant to Conservation**

The original nonpoint source pollution control plan for the State was written in 1988. In 1990 Congress passed the Coastal Zone Act Reauthorization Amendments, which required California to insure that management practices to reduce polluted runoff were actually being implemented. In light of these new requirements, the SWRCB worked in cooperation with the California Coastal Commission to update the existing plan. The Board adopted, "The Plan for California's Nonpoint Source Pollution Control Program," in 1999. The Plan was approved by the Coastal Commission, the USEPA, and NOAA in 2000. It is formed around a three-tier approach that encourages voluntary efforts. Tier I is a voluntary approach that gives landowners the opportunity to solve nonpoint source problems on their own. Tier II is characterized as "regulatory encouragement" of management practices to control nonpoint source pollutions. Tier III covers the adoption of waste discharge requirements and use of various enforcement tools.

In 1995 the Board also approved a Rangeland Water Quality Management Plan for California, which was developed in cooperation with the livestock industry and the Range Management Advisory Committee that reports to the Board of Forestry.

In its role adjudicating State water rights, the SWRCB often encourages competing water users to develop a cooperative agreement that it will consider for approval. CALFED has become the model for this. Under CALFED, water rights agreements for the San Joaquin River have already been approved and efforts are now under way to reach agreements on the Sacramento River. The SWRCB does occasionally shift the balances of competing uses presented to it. For example, in light of the current energy crisis, the SWRCB decided to defer implementation of instream flows for protection of fishery resources on the Yuba

River for five years because of the impact those flows would have on hydroelectric power generation.

### **Relationship with CCRISP**

The protection of fisheries and wildlife is one of several competing beneficial uses of water under California water laws. To the extent that the SWRCB balances these uses in a manner less favorable to fisheries and wildlife, its mandates may conflict with CCRISP. The SWRCB at times conflicts with CDF, DOC, and DFG over how to interpret data and balance values.

Through its mandate to control nonpoint source pollution, the SWRCB has regulatory authority to influence land management practices in ways beneficial to watershed ecosystems. The SWRCB has begun to negotiate Management Agency Agreements with other government entities to implement appropriate management practices on private lands.

### **CALFED**

CALFED is a joint effort between State and federal agencies initiated in 1994 to address the severe environmental and water management concerns associated with the Bay-Delta region. Substantial progress has been made on the goals outlined in the initial Framework Agreement signed by the agencies and is now in the process of implementing a long-term program for the region. CALFED provides funds to other entities that support its goals. As of May 2000, CALFED had provided \$229.4 million for ecosystem restoration projects.

CALFED was initiated in large part because of pressure by State and federal conservation agencies to manage the Bay-Delta system in a manner that would conserve natural ecosystems. It essentially represents an attempt to balance those interests against other efforts to manage the Bay-Delta system in a manner that conserves resources both for production (agriculture) and human use (including recreation and water for urban use).

CALFED is not itself a governing body with legal mandates, but a cooperation agreement between agencies with a regulatory responsibility in the Bay-Delta estuary. The State agencies are: Resources Agency's Department of Water Resources and the Department of Fish and Game, Cal/EPA's State Water Resources Control Board and California Department of Food and Agriculture. The CALFED federal agencies are: Department of the Interior's Bureau of Reclamation and the Fish and Wildlife Service, The Environmental Protection Agency, Department of Commerce's National Marine Fisheries Service, U.S. Army Corps of Engineers and Department of Agriculture's Natural Resources Conservation Service.

CALFED has been working on creating a new governance structure that would include a new Commission, half of which would be agency representatives and the other half stakeholder representatives. The Commission would have the authority to make grants, instead of the current structure where grants are distributed through the numerous partner agencies. Also, Congress and the Legislature would like to see more accountability in how CALFED appropriations are spent and this commission could provide that. The commission could also provide a mechanism for making difficult decisions if CALFED funding becomes scarce.

### **The Framework Agreement**

The Framework Agreement's goals included water quality standards formulation, coordination of the State Water Project and Central Valley Project operations, and long-term solutions to problems in the Bay-Delta Estuary. In 1994 stakeholders came to an agreement on water quality standards, known as the Bay-Delta Accord, which included several provisions to protect fish populations. Operators of the State Water Project and Central Valley Project now have a joint operations center and meet regularly to coordinate management of the Projects to comply with endangered species protections, water quality standards, and provisions of the Central Valley Project Improvement Act.

### **The CALFED Program**

Environmental reviews for a long-term CALFED program have been completed and the Preferred Program Alternative, a 30-year plan to, "restore the health of the Bay-Delta ecosystem, improve water supply reliability and water quality, and protect Delta levees," is in the first seven-year stage of implementation. This long-term plan reflects the primary objectives of four key program areas. (1) Water Quality—Provide good water quality for all beneficial uses. (2) Ecosystem Quality—Improve and increase aquatic and terrestrial habitats and improve ecological functions in the Bay-Delta to support sustainable populations of diverse and valuable plant and animal species. (3) Water Supply Reliability—Reduce the mismatch between Bay-Delta water supplies and current and projected beneficial uses dependent on the Bay-Delta system. (4) Bay-Delta System Vulnerability—Reduce the risk to land use and associated economic activities, water supply, infrastructure, and the ecosystem from catastrophic breaching of Delta levees.

### **Relationship with CCRISP**

As a cooperation agreement between various agencies, CALFED itself does not have any legal mandates except for the agreements outlined in the Framework Agreement and the Preferred Program Alternative. CALFED may conflict with CCRISP to the extent that these agreements reflect the mandates of agencies and stakeholder interests that conflict with CCRISP. Primarily, there is tension

between water accounts and management practices for fisheries and for other competing uses.

CALFED has extensive watershed restoration programs. It also serves as a model for balancing competing water uses and developing water management practices sensitive to ecological values. CALFED is also a model of cooperation between federal and State agencies.

### **State Laws Applicable to all Agencies**

The primary resource-related State Acts that affect the activities of most State agencies include the California Endangered Species Act, the California Environmental Quality Act, and the California Wild and Scenic Rivers Act. These acts necessitate State agency interactions to achieve common conservation goals. CCRISP will benefit from the data and information gathering that occur at the State level due to classification and regulatory requirements as determined by the following legislation.

#### **California Endangered Species Act (FGC §2050-2116)**

The California Endangered Species Act (CESA) provides broad protection for species of fish, wildlife, and plants that are listed as threatened or endangered in the State. CESA is administered by the Department of Fish and Game, and the Commission makes decisions about listing species. The main purposes of the Act are to provide a means of conserving the ecosystems upon which endangered and threatened species depend and to provide a program for conserving those species. Federally listed plants (under the ESA) are given federal protection only on federal lands. To fill this gap in protection, the CESA protects plants *not* growing on federal lands.

#### **Land Acquisition (FGC §1580)**

Authority is granted to the Wildlife Conservation Board to establish ecological reserves by acquiring habitat for threatened and endangered species. CESA states that that it is the intent of the Legislature, consistent with conserving the species, to acquire lands for habitat for these species.

#### **Interagency Consultation (FGC §2053)**

CESA requires all State lead agencies to consult with DFG about projects that may impact listed species. DFG must render an opinion as to whether the proposed project jeopardizes a listed species. If it does, the department must develop reasonable and prudent alternatives for proposed projects, and if this is not feasible, to require mitigation and enhancement measures.

### **California Environmental Quality Act of 1970 (PRC §21000 et seq.)**

The California Environmental Quality Act is intended to disclose information about government actions that could harm the environment and to mitigate significant harmful impacts if possible. CEQA is not a substantive law, but, rather, a review mechanism similar to the National Environmental Policy Act; therefore, it pervades not only conservation efforts in the State but also government agency efforts to manage lands for any purpose. In general, by requiring environmental review and encouraging mitigation, CEQA forces agencies engaged in conservation for production and conservation for human use to balance those interests with conservation for natural systems, whether or not their legal mandates require them to do so.

### **Wild and Scenic Rivers Act (PRC §5093.5-5093.7)**

This Act establishes a Wild and Scenic Rivers System for the protection of rivers with important scenic, recreational, fish and wildlife, and other values. It was created in 1972 by the Legislature in an effort to balance the traditional water and power development on rivers with a preservation of some free-flowing segments for their recreation and wildlife values. In the State, 1,900 miles of river are under Wild and Scenic protection.

Pursuant the California Wild and Scenic Rivers Act, no dam or reservoir shall be constructed on any river unless the Secretary determines that the facility is needed to supply domestic water and that it will not adversely affect the free-flowing condition of the river (PRC §5093.55).

### **Federal Agencies**

#### **U.S. Fish and Wildlife Service**

The U.S. Fish and Wildlife Service (FWS) is the principal federal agency for conserving, protecting, and enhancing fish, wildlife, plants, and their habitats. It was formally established in the Department of the Interior in 1974, by the Fish and Wildlife Act of 1956 Amendments. The major responsibilities of the FWS are to protect migratory birds, endangered species, certain marine mammals, and freshwater and anadromous fish. Major activities related to species protection include for:

- Migratory birds: wildlife refuge management for production, migration, and wintering; law enforcement; game; and bird population, production, and harvest surveys;

- Mammals and non-migratory birds: refuge management of resident species, law enforcement, protection of certain marine mammals, and technical assistance;
- Coastal anadromous fish: hatchery production and stocking;
- Great Lakes fisheries: hatchery production of lake trout and fishery management in cooperation with Canada and the States; and
- Other inland fisheries: hatchery production and stocking of Indian lands, and technical assistance.

The primary mandates of FWS include: (1) enforcing the federal Endangered Species Act; (2) managing National Wildlife Refuges and National Fish Hatcheries; (3) acquiring wetlands, fishery habitats, and other lands for restoration and preservation; (4) insuring compliance with the National Environmental Policy Act; (5) and reviewing and commenting on all water resource projects.

The origins of the FWS stem from initial interest in protecting migratory birds, particularly waterfowl populations. The Migratory Bird Treaty Act of 1918 provided for regulations to control the taking of migratory bird species. The Migratory Bird Conservation Act of 1929 authorized the Department of Agriculture to acquire lands, or interests in lands, to preserve habitat for migratory birds. This was done to protect recreational hunting interests.

The Bureau of Biological Survey, in the Department of Agriculture and the Bureau of Fisheries, in the Department of Commerce, merged in 1939 and transferred to the Department of the Interior. They were merged to form the Fish and Wildlife Service in 1940. In 1956, the Bureau of Commercial Fisheries, under FWS, was moved to the Department of Commerce and eventually formed the National Marine Fisheries Service. The Fish and Wildlife Act of 1956 established a comprehensive national fish and wildlife policy and broadened the authority for acquisition and development of refuges.

Until the 1960s, FWS land acquisitions were predominantly created to protect migratory birds and wintering habitats such as wetlands. With the passage of the ESA, habitat acquisition expanded to protect habitat for threatened and endangered species.

The FWS historically placed more emphasis on conservation of fish and wildlife in its oversight of the ESA, but is recently increasing its protection of plant species and plant communities through development of Habitat Conservation Plans (HCP) and Natural Communities Conservation Plans (NCCP).

## **Enforcing the Federal Endangered Species Act**

The Service provides leadership in identifying, protecting, and restoring endangered species of fish, wildlife, and plants. As of April 2001, 275 of the listed species in the U.S. occurred in California, which is over 20 percent of listed species. The FWS oversight of the Endangered Species Act (U.S.C. §§ 1531 to 1544) (1994) includes listing species as threatened or endangered, conducting status surveys, designating critical habitat for listed species, developing recovery plans, consulting with federal agencies on activities that may have adverse impacts on a species, and enforcing regulations that affect FWS and foreign importation of listed species. FWS also has enforcement authority of the Migratory Bird Treaty Act of 1918. (16 U.S.C. §§ 703-712)(1994).

## **Managing National Wildlife Refuges and National Fish Hatcheries**

The Service currently manages a 93-million-acre National Wildlife Refuge System with more than 530 individual refuges, wetlands, and special management areas. The national wildlife refuge system is designed to conserve area wildlife, prevent extinction, and conserve wildlife ranges, game ranges, wildlife management areas, and waterfowl production areas. FWS operates 66 national fish hatcheries, 64 fishery resource offices, and 78 ecological services field stations. The National Refuge System Administration Act (NRSAA) of 1966 placed all of the nation's wildlife refuges into one system to be administered by FWS. (16 U.S.C. § 668d) (1994).

In California, there are 37 areas managed under the National Wildlife Refuge System, and 3 National Fish Hatcheries or facilities. Half of these areas are closed to public use, most often due to presence of sensitive species, of which most were bird species.

National refuges are also managed to provide recreational opportunities such as hiking, wildlife viewing, fishing, and hunting. Fishing and hunting activities are required to be managed to be compatible with conservation goals. The Fish and Wildlife Act (16 U.S.C § 742) establishes a comprehensive national fish, shellfish, and wildlife resources policy with emphasis on the commercial fishing industry, but the agency is also mandated to maintain and increase public opportunities for recreational use of fish and wildlife resources.

The Refuge Recreation Act (1962) allows public recreation and access on refuges, including hunting and fishing.

## **Acquiring Lands for Restoration and Preservation**

Coastal Wetlands Conservation Grants are awarded each year to coastal states for the acquisition, restoration, or enhancement of coastal wetlands and tidelands.<sup>16</sup> Other enabling legislation for land acquisition includes:

- The Migratory Bird Conservation Act (MBCA) of 1929, which authorized FWS to acquire land or interests in land to conserve the habitats of migratory birds, particularly waterfowl.
- Under the authority of the ESA, monies from the Land and Water Conservation Fund (LWCF) can be used to conserve threatened or endangered species or communities.
- The North American Wetlands Conservation Act (NAWCA) of 1989 (16 USC §§ 4401 et seq.) provides matching grants to private or public organizations or to individuals who have developed partnerships to carry out wetlands conservation projects in the United States, Canada, and Mexico.
- All statutes that require action related to the protection of fishery resources.

FWS uses both funding sources and allocation systems of some interest to CCRISP. The Migratory Bird Conservation Act permits acquisition of land under the Federal Duck Stamp Program, as provided for under the Migratory Bird Hunting and Conservation Stamp Act of 1934. Revenues collected from stamp sales are deposited directly into the Migratory Bird Conservation Fund to purchase wetlands and wildlife habitat for inclusion into the National Wildlife Refuge System. Also, the LWCF decisions are based in part on FWS's Land Acquisition Priority System, a ranking system that balances various criteria. Furthermore, California benefits from heavy FWS spending here to implement habitat conservation plans under the ESA. Approximately half of the \$65 million appropriated in 2001-02 for land acquisition to implement HCPs was allocated to California.

FWS, more than other land-management agencies, uses easements to protect habitat and ecosystem functions. A conservation easement is a legal agreement made by a property owner to restrict land use, such as the type and amount of development that may take place on the property.

### **Reviewing and Commenting on Water Resource Projects**

The Fish and Wildlife Coordination Act (16 U.S.C. §§ 661 to 666c –1994) mandates FWS responsibility in water resource developments to protect the loss of and damage to wildlife, and to develop and improve the wildlife resource in

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<sup>16</sup> Since the first grants were given out in 1992, 25 States and one U.S. Territory have been awarded \$90 million to protect and/or restore 105,000 acres of coastal wetlands and submerged habitats.



connection with water resource developments. The ESA (§ 7), regarding interagency consultations, is also relevant in this area. Water resource management activities include surveillance of pesticides, heavy metals, and other contaminants; studies of fish and wildlife populations; ecological studies; environmental impact assessment, including hydroelectric dams, nuclear power sites, stream channelization, and dredge-and-fill permits; and environmental impact statement review.

### **Insuring Compliance with the National Environmental Policy Act**

FWS, in fulfilling NEPA requirements, completes an Environmental Impact Statement for any major Federal action significantly affecting the quality of the human environment. (42 U.S.C. § 4332(2)C). FWS actions that normally require an EIS include but are not limited to (1) major proposals to establish new refuges or fish hatcheries, and (2) comprehensive conservation plans for new installations. (62 Fed. Reg. 2380 – 1997). The more stringent California Environmental Quality Act (CEQA), may be addressed by FWS if a federally listed species is involved in a CEQA consultation.

### **Relationship with CCRISP**

FWS, as manager of the National Wildlife Refuge System, must fulfill the dual, and at times conflicting objectives of wildlife management and conservation and allowing public use. In the 1999-2003 Strategic Plan, FWS identifies the goal of increasing public recreational use at the refuges by ten percent. The Secretary of the Interior is directed to “permit the use of any area within the System for any purpose, as long as it is deemed to be a compatible use.” NRSAA provides little management guidance, except for imposing possible restrictions on the authorization of secondary uses on wildlife refuges.

In order to identify target areas for protection, and prime areas for recovery and conservation, FWS developed the Land Acquisition Priority System (LAPS) in 1983. Criteria are derived from plans prepared under different authorities. Criteria for migratory birds are based on the North American Waterfowl Management Plan (NAWMP), based primarily on the habitat loss and population management objectives. Criteria for wetlands are based on the National Wetlands Priority Conservation Plan (NWPCP), using habitat and threat, and degree of biodiversity. Criteria for recovery of threatened species are based on the published list of endangered and threatened species and species recovery plans, and are based on recovery priorities, species status, and consistency with endangered species priorities.<sup>17</sup> CCRISP could benefit from the data and expertise developed in LAPS and efforts could be made to seek coordination between the two projects.

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<sup>17</sup> The National Academy of Science, “Setting Priorities for Land Conservation”, 1993, (GAO, 1988).

The HCP/NCCP process is controversial, as would any effort to reconcile development and conservation interests. None the less, the planning process model, which works closely with local governments and organizations to identify needs and opportunities, will be the local/subregional adjunct to the statewide CCRISP efforts, along with other regional efforts to conserve resources.

### **The National Park Service**

Under the Organic Act of 1916 (16 U.S.C. §1), NPS is mandated to promote and regulate the use of national parks, monuments and reservations in a manner that acts to (1) conserve the scenery, the natural, and historic objects, and the wildlife in such a way that leaves them unimpaired for future use, while (2) providing for compatible recreation opportunities for the public.

The NPS primarily focuses on the acquisition and maintenance of areas of high scenic or recreational value – in other words, it conserves the best examples of America's wilderness areas for preservation and for human use, but it must do so with a long-term view that does consider conservation of natural systems. Provision of recreational opportunities for the public is highly prioritized in the management of these areas. Acquisition authority is primarily through Congressional order.

Although Yellowstone National Park was created in 1872, there was no real system of national parks until 1916, when the National Park Service was created as a federal bureau to manage areas then assigned to the U.S. Department of the Interior. The Organic Act of 1916 provided a more direct description of land stewardship, and necessitated increased attention to resource management to prevent negative impacts related to human use. NPS began biological assessments and inventories of its natural resources and limited types of recreational uses allowed in the park units.

Under the General Authorities Act of 1970, all areas administered by the National Park Service were incorporated into one National Park System. This allowed for the development of more strategic planning efforts and coordination amongst park units. Older national parks, such as Yosemite, Sequoia and Lassen, have less specific directives from Congress. Newer units, such as Mojave National Park and the Santa Monica Mountains National Recreation Area, operate under more specific direction from Congress. In order to provide accountability to the public, standardize conservation objectives, and reduce "loose" interpretations by individual park managers, congressional directives now attempt to more clearly define the missions of each park unit. For example, the SMMNRA operates under direction from Congress to serve as a clean air shed for Los Angeles [Public Law 95-625], thereby giving it more flexibility in land acquisition.

Prior to the 1960s, new parks were established from the public domain, from national forests, or by donation. Since then NPS has been more actively pursuing private land acquisitions. There are numerous lands that have congressional approval for acquisition, yet there remains a persistent backlog of these purchases due to lack of funding.

### **National Park System**

The National Park System comprises 384 areas, with more than 83 million acres in 49 states, the District of Columbia, American Samoa, Guam, Puerto Rico, Saipan, and the Virgin Islands. These areas have been given special recognition and statutory protection because of their national significance. Land categories include national parks, monuments, historic sites, battlefields, and recreation areas. The National Park Service maintains a total of 23 different units in California, including nine National Parks.

### **Wilderness Preservation and Management**

NPS is mandated to manage wilderness areas in a manner that will leave them unimpaired for future use and enjoyment as wilderness areas. Management priorities include the preservation of their wilderness character, and the gathering and dissemination of information regarding their use and enjoyment as wilderness. Specific purposes of wilderness include public recreation, scenic preservation, scientific study, education, conservation, and historical use. (16 U.S.C. 1131).

### **Natural Resource Management**

Managed resources include plants, animals, water, air, soils, topographic features, geologic features, paleontologic resources, and aesthetic values. Some of these resources are protected both by NPS authorities and by other statutory authorities, such as the Clean Air Act (42 U.S.C. 7401 et seq.), the Clean Water Act (33 U.S.C. 1251 et seq.), the Endangered Species Act (16 U.S.C. 1531 et seq.), the National Environmental Policy Act (42 U.S.C. 4321 et seq.), the Wild and Scenic Rivers Act 16 (U.S.C. §§ 1271-1287), and the Wilderness Act (16 U.S.C. 1131 et seq.).

### **Wildlife Management**

Under the ESA, the NPS consults with other federal land-managing agencies, the U.S. Fish and Wildlife Service, State agencies, native American authorities, and others regarding programs to control populations of fish and wildlife, research programs involving the taking of fish and resident wildlife, and cooperative studies and plans to guide public hunting outside park boundaries. (16 U.S.C. 1531 et seq.).

## **Water Resource Protection**

The Water Resources Department (WRD) was created to preserve and protect NPS water resources and water dependent environments. The activities of WRD include: formulating water resources policy recommendations; planning assistance and regulatory reviews; water resources inventories and monitoring; identification, evaluation, and mitigation of existing and potential threats to park water quality and quantity; floodplain and flood hazard analyses and delineation; erosion and sediment control; protection of wetland and riparian habitats; locating and testing surface and ground water sources for potable water needs; securing and protecting NPS water rights and water resources; modifying and developing methods and procedures for applied water resources management; and conducting projects and studies in support of water resource needs.

## **Cultural and Historical Resource Management**

The Antiquities Act of 1906 (16 USC §§ 431-433) mandates the protection of historic or prehistoric remains and sites of scientific value on federal lands, establishes criminal sanctions for unauthorized destruction or removal of antiquities, authorizes the president to establish national monuments by proclamation, and authorizes the scientific investigation of antiquities on federal lands, subject to permit and regulations.

The Historic Sites, Buildings, and Antiquities Act of 1935 (16 U.S.C. § 461 et seq.) directs the Secretary of Interior to promote the field of historic preservation. It authorizes the Historic American Buildings Survey, Historic American Engineering Record, and National Survey of Historic Sites and Buildings. The National Historic Preservation Act, created in 1966 (16 U.S.C. 470), establishes additional programs for the preservation of historic properties throughout the nation and establishes a system to classify properties on or eligible for inclusion on the National Register of Historic Places. It requires the development of professional standards for preservation of historic properties and requires the heads of all federal agencies to assume responsibility for the preservation of historic properties that they own or control.

The Archaeological Resources Protection Act of 1979 (16 U.S.C. 470) established the protection of archeological resources on public or Indian lands by regulating the excavation and collection of resources and fostering increased cooperation and exchange of information between private, governmental, and professional communities. It also requires the notification of Indian tribes prior to issuing permits for activities at sites which may be of religious or cultural importance to them.

## **Recreation**

There are 273 million annual visitors to the national parks, including 35 million visitors to California's national park assets. The Outdoor Recreation Act, created in 1963, lays out the Interior Department's role as coordinator of all federal agencies for programs affecting the conservation and development of recreation resources. The Secretary of Interior is directed to prepare a nationwide recreation plan and provide technical assistance to states, local governments, and private interests to promote the conservation and utilization of recreation resources.

The National Trails System Act (16 U.S.C. 1241 et. seq.) provides authority for the protection of outdoor recreation needs, urban and scenic areas, and historic travel routes. NPS develops and implements park management plans and staffs the areas under its administration. The natural values and historical significance of these areas are highlighted to the public through talks, tours, films, exhibits, and publications. It operates campgrounds and other visitor facilities and provides - usually through concessions - lodging, food, and transportation services in many areas.

### **Relationship with CCRISP**

The NPS is mandated to fulfill the dual objectives of wilderness / wildlife management and public use. Due to limited resources, acquisition and provision of public recreation opportunities is perceived to be prioritized over management of natural resources. In order to ensure that natural and cultural resources are maintained in way that will "leave them unimpaired for the enjoyment of future generations" as directed in the Organic Act, NPS resources must be inventoried, assessed, and monitored regularly. Only 86 parks have complete lists of animal species, only 11 parks have complete vegetation maps, and none have a comprehensive resource monitoring program<sup>18</sup>. As these maps are monitoring programs are created, there exists an opportunity for greater integration with State agencies and CCRISP objectives.

NPS has the largest public use of its lands, with high visitation rates to most park facilities. It has the most highly developed public interpretation / environmental education programs of the federal land management agencies. This may be a useful tool in educating the public about conflicts in public recreational uses and conservation priorities that occur in the jurisdictions of many agencies.

### **The U.S. Forest Service**

The U.S. Forest Service (USFS) was created to manage public forests and rangelands in 1905. Under the National Forest Management Act of 1976, (16 U.S.C. §§1600 to 1616) the Forest Service was charged by Congress to provide multiple use management of all National Forests. USFS activities include

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<sup>18</sup> Oversight Hearing, Science and Resources Management in the National Park Service before the Subcommittee on National Parks and Public Lands, 1997.

managing the national forests; cooperating with the states in the protection of forests against wildfires, insects, and disease; and providing technical and financial assistance to private and other nonfederal forest owners, and forest-related research.

The Organic Act of 1897 specified the purposes (e.g., timber and water supply) for which forest reserves can be established and provided for their protection and management. National forests encompass 191 million acres (77.3 million hectares) of land. The National Forest System has lands in 44 states, Puerto Rico, and the Virgin Islands. The lands comprise 8.5 percent of the total land area in the United States. In California there are 18 National Forests, encompassing 20.6 million acres, or almost 20 percent of California's total acreage.

The Forest Service carries out its mission under the mandates within the Multiple-Use Sustained Yield Act of 1960 (MUSYA)(16 U.S.C. § 528 to 531), which directs that the National Forests be managed for multiple uses including (1) recreation, (2) range, (3) timber, (4) watershed and wildlife and fish and (5) a sustained yield of products and services. MUSYA defines "sustained yield" as the "achievement and maintenance in perpetuity of a high level annual or regular periodic output of the various renewable resources of the national forests without impairment of the productivity of the land" (*Id.* § 531).

The Forest Plans for the national forests in California were developed in the late 1980s. By law, Forests must revise their plans every 15 years. The Clinton Administration added new regulations (65 FR 67514-67581) in November 2000 which altered the planning process by establishing ecological sustainability as the top priority for managing the national forests; therefore, setting priorities locally left to the land managers.<sup>19</sup> Previously, none of the uses on USFS lands had statutory authority over the others.

Thus, the Forest Service must seek to conserve land for human use, for production, and for natural systems. Traditionally, the Forest Service lands were managed primarily for timber production, but conservation and recreation also play roles in management. The emphases on production or conservation may vary widely depending on the political climate.

## **Recreation**

The Forest Service manages 133,087 miles of hiking, horse, and OHV trails, including portions of six national scenic trails and 11 national historic trails; extensive hunting and fishing opportunities; 383,000 miles of authorized roads; more than 277,000 heritage sites; over 4,300 campgrounds; and 31 National Recreation, Scenic Areas and Monuments.

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<sup>19</sup> The National Academy of Science, "Setting Priorities for Land Conservation", 1993.

## **Rangeland**

Livestock grazing is a major activity on national forest lands.<sup>20</sup> Grazing management directives are found in MUSYA, NFMA, FLPMA, the Organic Act, and the National Forest Grazing Act.

## **Timber**

The National Forest Management Act of 1976 (NFMA)(16 U.S.C. §§1600 to 1616) includes substantive guidelines for determining timber management within National Forests.

## **Watersheds, Wildlife and Fish**

The Wilderness Act of 1964 (16 U.S.C. §§ 1131 to 1136(1994) established a National Wilderness Preservation System to be composed of federally owned areas designated by Congress as "wilderness areas", and charged federal agencies with the responsibility for preserving the "wilderness character" of public lands.

The Wild and Scenic Rivers Act (16 U.S.C. §§ 1271-1286) directs that the Forest Service classify rivers and has the authority to condemn and purchase lands within the designated river corridor. The agency must develop a comprehensive management plan for each river designated under the act to ensure protection. USFS currently manages 4,268 miles of the Wild and Scenic Rivers System. A Nationwide Rivers Inventory prepared by the Department of the Interior in 1979 lists 67 individual river segments in California that could possibly be eligible for listing. These river segments total almost 3,000 miles, approximately 1,200 of which are within national forests.

## **Sustained Yield of Products and Services**

Under MUSYA, sustained yield is defined as the "achievement and maintenance in perpetuity of a high level annual or regular periodic output of the various renewable resources of the national forests without impairment of the productivity of the land" (§ 531).

The Forest and Rangeland Renewable Resources Research Act of 1978 directs that the agency conduct and cooperate in research to generate knowledge about protecting, managing, and using forested, rangeland renewable resources.

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<sup>20</sup> Natural Resources law Institute, "A Survey of Columbia River Basin Water Law Institutions and Policies", 1997.

## **Relationship with CCRISP**

Because it was traditionally a production-oriented agency, the USFS is challenged to balance conservation needs with production goals. In addition, the Forest Service Plans, updated only every 15 years, may provide a less flexible agency framework within which to work towards conservation goals.

The USFS has incorporated wilderness conservation goals into its strategic plan. These include developing a comprehensive program of wilderness inventory and monitoring.<sup>21</sup> These goals are directly in line with CCRISP objectives, and strategic plans developed by USFS may provide useful models for CCRISP to utilize.

## **The Bureau of Land Management**

In 1946, the Grazing Service was merged with the General Land Office to form the Bureau of Land Management (BLM) within the Department of the Interior. Most of the lands the BLM manages are located in the western United States, including Alaska, and are dominated by extensive grasslands, forests, high mountains, arctic tundra, and deserts. BLM is responsible for managing 264 million acres of land, roughly 13 percent of the land in the United States, as well as 300 million additional acres of subsurface mineral resources. In addition, BLM is responsible for fire suppression on 388 million acres.

BLM owns 14.7 million acres of surface land in California (14percent of California's total surface acreage) making it the State's single largest land management agency.

The Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. §§ 1701 to 1784) is sometimes called BLM's Organic Act because it consolidated and articulated the agency's responsibilities. FLPMA is a land use planning process that directs the agency to achieve multiple-use and sustained-yield management of renewable resources. Under FLPMA, management of recreation; range; timber; minerals; watershed; wildlife and fish; and natural scenic, scientific and historical values are identified as agency responsibility. To carry out the statutory objectives, the BLM has promulgated regulations concerning (1) grazing administration, (2) minerals management, (3) wildlife management, (4) forest management, (5) wilderness management, and (6) recreation programs.

Thus, while BLM, like the Forest Service, must manage multiple uses, it has historically operated as an agency that is focused on conservation for production.

Resource Management Plans (RMP) direct implementation actions regarding land usage. Recently, in a congressional request for funding, the BLM identified

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<sup>21</sup> USFS Strategic Planning Paper, A Wilderness Agenda: Thinking Like a Mountain, 2000.



247 RMPs that were in need of revision. Only seven out of 20 California land use plans are up to date.<sup>22</sup>The BLM has identified that there are currently not enough staff trained in planning development.

### **Grazing Administration**

The Taylor Grazing Act of 1934 (43 U.S.C § 315) was the initial statutory authority regulating grazing on public lands through the use of permits. The statutory provisions of FLPMA concerning grazing fees, grazing leases and permits, and grazing advisory boards are covered in 43 U.S.C.§§ 1751 to 1753. Current regulations concerning grazing administration, qualifications and preferences, grazing management, authorized grazing use, prohibited acts, unauthorized grazing use, administrative remedies, penalties, and fundamentals of rangeland health, standards and guidelines for grazing administration are covered in 43 C.F.R. pts. 4100 to 4180.<sup>23</sup>

### **Minerals Management**

The Bureau oversees and manages the development of energy and mineral leases and ensures compliance with applicable regulations governing the extraction of these resources. Activities include oil and gas leasing, geothermal resources leasing, coal management, management of solid materials other than coal, mineral materials disposal, multiple use mining, and mining claims under the general mining laws. Statutory authority is pursuant to the General Mining Law of 1872, as amended (30 U.S.C 29 and 43 C.F.R. 3860), those portions of FLPMA that affect the General Mining Law (43 C.F.R. pts. 3000 to 3870), and the Surface Resources Act of 1955 (30 U.S.C. §§ 601, 603, 611-613).

### **Wildlife, Forest, and Wilderness Management**

In compliance with the Endangered Species Act (ESA), BLM has management goals for protection and recovery of threatened and endangered species on BLM lands to ensure they are not adversely affected by modification of critical habitat. Before allowing activity in an area, BLM must prepare biological assessments for any listed species which is present (16 U.S.C. § 1536). Unlike the Forest Service, the BLM is not subject to the timber requirements of NFMA. However, in developing BLM timber management plans and authorizing specific timber sales, the agency must comply with FLPMA (43 U.S.C. § 1732 (a)) as well as the requirements of NEPA and ESA.

The Wilderness Act of 1964 (16 U.S.C. §§ 1131 to 1136(1994) charges that federal agencies are responsible for preserving the "wilderness character"

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<sup>22</sup> BLM, *California Public Rewards from Public Lands*, 2000.

<sup>23</sup> Natural Resources law Institute, "A Survey of Columbia River Basin Water Law Institutions and Policies", 1997.

of public lands. Wilderness Areas and Wilderness Study Areas managed by BLM have restrictions on mining, motorized equipment, and grazing ( Id. §1131 (b)). The BLM is responsible for the management of rivers designated pursuant to the Wild and Scenic Rivers Act (16 U.S.C. §§ 1271-1286), which directs federal agencies to: classify rivers, condemn and purchase lands within the designated river corridor, and develop a comprehensive management plan for each river designated under the act to ensure the protection of river values.

## **Recreation Programs**

The Outdoor Recreation Act directs the Secretary of Interior to prepare a nationwide recreation plan to promote the conservation and utilization of recreation resources. BLM, in the *Recreation 2000* document (BLM, 1990; undated) outlines the recreation policy goals as: to provide a wide diversity of recreational opportunities and respond to increased recreational demand, provide resource-dependent recreational opportunities, manage and monitor resources essential to recreation experience, use land ownership and access adjustments to enhance recreational opportunities by creating more manageable units through consolidation of land holdings, and contribute to local economic vitality through cooperation with tourism entities.

## **Relationship with CCRISP**

FLPMA directs BLM to manage the public lands under its jurisdiction in a manner which maintains sustainable yields of domestic sources of minerals, food, timber, and fiber, while maintaining scenic and ecologic value. The multiple use mandate also requires that public access and high impact recreation needs, such as OHV use, are to be provided. Managing lands to accommodate multiple uses leads to a need to balance the interests of different land users. There is potential that a large number of degraded lands will be made available for restoration efforts under the increasing the availability of lower-impact recreation lands.

Future BLM land-use planning is directed by resource-management plans (RMP), which identify locally developed criteria. These criteria can range from recreation values, riparian-wetland area, and wildlife values to endangered species management. The individual management plans may provide useful information to CCRISP, due to area-specific studies performed for each plan.

The BLM is attempting to consolidate its land holdings through identifying opportunities for exchange and reconfiguring federal land holdings. Exchanges are limited to lands with the same State. Land exchanges are becoming more common, in order to obtain lands with key conservation values while transferring properties with development and commercial potential to State and private interests. There are five general categories of criteria used in the BLM acquisition considerations. They are recreation and access, habitat and wetlands protection, cost minimization, threat of development, and protection of cultural and natural features.<sup>24</sup> CCRISP could seek to coordinate its acquisition priorities with BLM. BLM has shown significant foresight in investing in planning and leadership in working with State, local and private organizations.

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<sup>24</sup> The National Academy of Science, "Setting Priorities for Land Conservation", 1993.

## **Federal Laws Common to FWS, NPS, USFS, and BLM**

The primary resource-related federal Acts mandated and implemented by the four federal agencies include the Endangered Species Act, the National Environmental Policy Act, and the Wild and Scenic Rivers Act. These acts provide acquisition authority and necessitate federal and State agency interactions to achieve common conservation goals. As the federal regulatory and planning legislation is then disseminated and implemented at the State level, CCRISP objectives may conflict or be complemented by interpretation of federal mandates at the State level. CCRISP will benefit from the data and information gathering that occurs at the State level due to federal classification and regulatory requirements as determined by the following legislation.

### **Endangered Species Act of 1973 (16 U.S.C. §§ 1531-1544)**

The Endangered Species Act provides broad protection for species of fish, wildlife, and plants that are listed as threatened or endangered in the U.S. or elsewhere. Provisions are made for listing species, as well as for recovery plans and the designation of critical habitat for listed species. The purposes of the Act are to provide a means of conserving the ecosystems upon which endangered and threatened species depend, provide a program for conserving those species, and take steps necessary to achieve the purposes of the international treaties and conventions. The policy of Congress is that federal agencies must seek to conserve endangered and threatened species and use their authorities in furtherance of the Act's purposes. § 1531.

#### **Land Acquisition (ESA § 5)**

The Secretary must establish and implement a program to conserve fish, wildlife, and plants, including listed species. To carry out the program, the Secretary is to use land acquisition and other authority under the Fish and Wildlife Act of 1956, the Fish and Wildlife Coordination Act, and the Migratory Bird Conservation Act. The Secretary is also authorized to acquire—by purchase, donation, or otherwise—lands, waters, or interests therein. Funds from the Land and Water Conservation Fund Act of 1965 may be used for acquisitions (LWCF, § 1534).

#### **Interagency Cooperation (ESA § 7)**

The Secretary must review other programs within the department and utilize these programs in furtherance of the purposes of the Act. All other federal agencies, in consultation with and with the assistance of the Secretary, also must use their authorities in furtherance of the purposes of the Act by carrying out programs for the conservation of listed species.

### **National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321-4347)**

Under NEPA, agencies are required to prepare a detailed environmental impact statement for any major federal action significantly affecting the environment. The Act also establishes the Council on Environmental Quality to review government policies and programs for conformity with NEPA. As with CEQA, NEPA essentially requires conservation agencies to consider conservation of natural systems in their actions whether or not they are legally mandated to do so.

### Environmental Impact Statements

All federal agencies must include a detailed environmental impact statement (EIS) in every recommendation or report on proposals for legislation and other major federal actions significantly affecting the quality of the human environment. An EIS must include an examination of the environmental impacts of the proposed action, any unavoidable adverse environmental effects and alternatives available to the proposed action, and any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

### **Wild and Scenic Rivers Act (16 U.S.C. §§ 1271-1287)**

This Act establishes a National Wild and Scenic Rivers System for the protection of rivers with important scenic, recreational, fish and wildlife, and other values. The Act contains procedures and limitations for control of lands in federally administered components of the System and for disposition of lands and minerals under federal ownership. Hunting and fishing are permitted in components of the System under applicable federal and State laws.

### Land Acquisition

The Secretary of the Interior and the Secretary of Agriculture are authorized to acquire lands and interests in land within the boundaries of System components they administer.

### Administration

Each System component must be administered to protect and enhance the values which caused it to be included in the System. Primary emphasis must be given to protecting its aesthetic, scenic, historic, archaeologic, and scientific features. System components administered through the National Park Service must become part of the national park system, and a System component administered through the U.S. Fish and Wildlife Service must become part of the national wildlife refuge system. All the laws applicable to the various systems must be followed, with the more restrictive provisions applying in the case of a conflict.

The Secretary of the Interior, the Secretary of Agriculture, and the heads of other federal departments or agencies with jurisdiction over lands within the System, or under consideration for inclusion, must take action through management policies, regulations, contracts, and plans to protect the areas in accordance with the purposes of the Act.

#### **IV. Assessment and Recommendations**

As was stated in section II, How Conservation Works in California, agency mandates usually focus on one or more of four different conservation goals: *production, human use, high-value natural areas, and natural systems*.

In most cases, the conservation agencies covered in this report were originally created to pursue one or more of the first three conservation goals. For example, both the California Department of Parks and Recreation and the National Park Service were created mostly to conserve high-value natural areas – the “crown jewels”. Most other older agencies had either a “production” or a “human use” mission – the management of fish and game for hunting and fishing purposes; the management of public land for the purpose of natural resource extraction; and so on.

Over time, most of them have received additional mandates focusing on conservation of natural resources. Often, new mandates have been “layered” on top of old ones. Most often, this “layering” involved the addition of natural systems mandates on top of other mandates. In addition, the passage of both CEQA and NEPA meant that natural resources agencies had to consider the health of natural systems in their actions, no matter what their mandates required.

For some agencies, the natural systems mandate has now become predominant, though other goals must still be accomplished. This is clearly true for the U.S. Fish & Wildlife Service, and it is largely true as well for the California Department of Fish & Game, whose orientation has shifted over time from recreational hunting and fishing to threatened and endangered species habitat conservation.

For others, these conservation goals represent a set of conflicts that are difficult to reconcile. This is especially true for the federal land management agencies, the Forest Service and BLM, which must accommodate a wide variety of activities on publicly owned land, virtually all of which promote one or another conservation objective. It is also true of the California Department of Forestry and Fire Protection, which must balance the economic goals of timber harvest against natural systems protection and also balance its own goals of fire suppression and prevention against natural systems protection as well.

The underlying point is that the pursuit of conservation goals is often not so much a matter of legal mandates, but, rather, a consequence of the balancing act that agencies must perform in their administrative and implementation practices in order to fulfill all of their legal mandates. Furthermore, it is worth noting that many of the conflicts that arise as agencies seek to fulfill their different mandates are conflicts that will have to be resolved within CCRISP itself. For example, CCRISP also covers the four conservation “roles” that may conflict as highlighted above. Recreational and production use of land, for example, always holds the potential for conflict with natural systems conservation.

For this reason, we suggest that the legal mandates analysis be put to a very specific use. Instead of suggesting fundamental changes in the legal mandates of the agencies themselves, we believe this document can be best used as a starting point to examine what role each agency plays and how their activities might be coordinated more effectively as part of CCRISP to achieve the State’s conservation goals. As CCRISP’s methodology begins to resolve conflicts among the State’s many different conservation goals, then it will become easier to refine the “role” each agency must play and possibly also suggest changes to their legal mandates to reflect that role.

To that end, we recommend the following steps:

**1. The State should undertake an expanded and more detailed assessment of what role each agency plays in the overall California conservation “system” and how that role will fit into CCRISP implementation.**

This report represents an important first step in that direction. We have identified the legal mandates of each agency, along with a general discussion of how those mandates have evolved and a surface analysis of how the agencies deal with those mandates. We have also discussed in general terms how each agency relates to CCRISP. As CCRISP evolves, however, the State should consider using the “systems analysis” contained in this report as a framework for understanding how conservation implementation should proceed.

Toward this end, the State should examine the role not only of the agencies included in this report, but also State and federal regulatory agencies, local governments, and private players to determine the impact they have on achieving the State’s conservation goals. This assessment should move beyond legal mandates to examine administrative practices and implementation decisions.

**2. The State should place renewed focus on updating management and implementation plans in light of CCRISP and on plan-based implementation, and should encourage federal agencies to do the same.**

Plan-based implementation is the key to linking the legal mandates identified in this report to day-to-day implementation. The management plans define the priorities of implementing agencies within a five-year time frame, and establish resource allocation priorities. To better achieve a system-wide approach to all CCRISP conservation values, integration of management plans and processes is appropriate.

Many agencies are updating their existing strategic or management plans. CCRISP should encourage and support these efforts. However, many of these planning efforts are proceeding in a vacuum. The State should use CCRISP to provide overarching direction so these departments may coordinate their efforts.

**3. The State should consider the establishment of an Interagency Conservation Coordinating Committee (or revamping the Biodiversity Council or some other existing entity) to perform this function, to ensure each agency is performing its preferred role.**

Continuing to improve interagency cooperation in California is key to improving conservation policy in a manner consistent with CCRISP objectives. This is especially true given that environmental policy in the U.S. depends on the cooperative federalism model, where jurisdiction and responsibilities are often shared. While many interagency efforts are under way between State agencies, there is less interagency cooperation between State and federal agencies, and less yet between State and federal agencies and local governments.

In addition, there are emerging conflicts between development tensions in outlying municipalities and CCRISP conservation objectives. An interagency coordinating committee can facilitate better planning between municipalities, as well as between conventional agencies at all levels of government.

An Interagency Conservation Coordinating Committee (ICCC) would have no authority other than to facilitate interagency communication, the formal review of planning processes and documents across agency jurisdictions, and review planning documents across agencies and make sure that their goals are complementary. This could be accomplished on an issue-by-issue basis, (e.g., migratory birds, watershed management) through subcommittees established and coordinated by the ICCC.



**4. As CCRISP develops statewide conservation priorities, the State should re-examine agency departmental mandates to determine whether they need to be changed in order to accomplish the State's conservation goals.**

Clearly, systemwide priorities need to be established in order to facilitate conservation values across the CCRISP objectives. As CCRISP evolves, the State should consider legislation beefing up long-range planning authority on conservation issues, so that the values of CCRISP across departmental lines are institutionalized.

CCRISP could also evolve in a way that: (1) attempts to more closely conform to the existing mandates and priorities of agencies or (2) clarifies and adjusts the basic missions and mandates of existing agencies. At that point, either administrative action, regulation or legislation could be needed.

## **V. Tables**

Table 1: Agency Mandates at a Glance

Table 2: Agency Activities Related to Conservation for Natural Ecosystems, and Production and Human Use

**Table 1: Agency Mandates at a Glance**

	High Biodiversity Lands, Freshwater Aquatic Systems, and Wetlands	Agricultural Lands	Range Lands	Forest lands	Recreation / Education	Historical Value (Archaeological / Paleontological)	Watershed	Urban Open Space	Minerals	Water Pollution	Regulatory Authority	Land Acquisition	Land Holdings
<b>State Resources Agencies</b>													
Department of Fish and Game	X	X	X	X	X		X		X		X	X	X
Wildlife Conservation Board	X	X	X	X	X		X					X	
Department of Forestry and Fire Protection	X		X	X	X	X	X	X		X	X		X
Department of Parks and Recreation	X			X	X	X		X			X	X	X
Department of Conservation		X							X		X		
Department of Water Resources	X				X		X				X	X	X
California State Lands Commission	X		X	X	X	X			X				X
California Conservancies	X	X		X	X		X	X				X	X
<b>Other State Agencies</b>													
State Water Resources Control Board and Regional Water Quality Control Boards	X	X	X	X			X		X	X	X		
<b>Joint Entities</b>													
CALFED	X	X					X			X		X	
<b>Federal Agencies</b>													
U.S. Fish and Wildlife Service	X				X		X			X	X	X	X
National Park Service	X				X	X	X	X			X	X	X
U.S. Forest Service	X		X	X	X		X	X			X	X	X
Bureau of Land Management	X		X		X				X		X	X	X

**Table 2: Agency Activities Related to Conservation for Natural Systems, and Production and Human Use**

	Conservation for Natural Systems	Conservation for Production and Human Use
<b>Department of Fish and Game</b>	Habitat acquisition, CEQA mitigation bank sites, wetland restoration, Significant Lands and Natural Areas Program, Streambed Alteration Agreements, NCCPs	May protect fisheries for economic value and game animals for recreational value
<b>Wildlife Conservation Board</b>	Acquisition, Grant programs for restoration	Recreational use, Public Access Program
<b>Department of Forestry and Fire Protection</b>	FRAP, State forests, urban forestry, watershed protection in THPs and Fire Plan	Timber harvest policies, fire protection activities
<b>Department of Parks and Recreation</b>	Acquisition; reducing habitat fragmentation, conversion, and exotic species invasion	Recreational use
<b>Department of Conservation</b>	Watershed planning assistance	Conservation of farmland
<b>California State Lands Commission</b>	Conservation uses of public trust lands, Kapiloff Land Bank	Recreation and commerce uses under the Public Trust Doctrine
<b>California Conservancies</b>	Habitat acquisition	Recreational use
<b>Department of Water Resources</b>	Multi-purpose floodplain management objectives, Multi-purpose SWP facilities	Construction of dams and flood control practices
<b>State Water Resources Control Board</b>	Regulatory authority to influence land management practices for watershed protection, water rights for fish and wildlife	Water rights for agricultural and urban uses
<b>CALFED</b>	Habitat restoration programs, influence on State water policy, manages water for fish/wildlife	Allocates water for agricultural and urban uses
<b>U.S. Fish and Wildlife Service</b>	Land Acquisition Priority System (LAPS), administers land acquisition and restoration grants	Secondary uses (recreation, hunting, fishing) on wildlife refuges
<b>National Park Service</b>	Acquisition, natural resource inventories	Recreational use, public education
<b>U.S. Forest Service</b>	Natural resource inventories and monitoring	Timber and grazing management, Recreation use
<b>Bureau of Land Management</b>	Resource Management Plans, Opportunities for land exchanges within the State	Timber, grazing and minerals management, Recreation use

## **VI. Appendices**

Appendix A: Mission Statements of Resource Agencies Operating in California

Appendix B: Glossary of Acronyms

Appendix C: Powers of the California Resources Agency

## **Appendix A: Mission Statements of Resource Agencies Operating in California**

The following is a list of agencies involved in California conservation efforts and their mission statements (where available). A mission statement can be viewed as a broad expression of how an agency has interpreted its mandates.

### **State Resources Agency**

To restore, protect, and manage the State's natural, historical, and cultural resources for current and future generations by using creative approaches and solutions based on science, collaboration and respect for all the communities and interests involved.

### **Department of Fish and Game**

The Mission of the Department of Fish and Game is to manage California's diverse fish, wildlife, and plant resources, and the habitats upon which they depend, for their ecological values and for their use and enjoyment by the public.

### **Wildlife Conservation Board**

The WCB describes its responsibilities as follows. The primary responsibilities of the Board are to select, authorize and allocate funds for the purchase of land and waters suitable for recreation purposes and the preservation, protection and restoration of wildlife habitat. The Board approves and funds projects that set aside lands within the State for such purposes, through acquisition or other means, to meet these objectives.

### **Department of Forestry and Fire Protection**

Mission Statement: The Department of Forestry and Fire Protection protects the people of California from fires, responds to emergencies, and protects and enhances forest, range and watershed values providing social, economic and environmental benefits to rural and urban citizens.

### **Department of Parks and Recreation**

Mission Statement: To provide for the health, inspiration and education of the people of California by helping to preserve the State's extraordinary biological diversity, protecting its most valued natural and cultural resources, and creating opportunities for high-quality outdoor recreation.

## **Department of Conservation**

The mission of the Department of Conservation is to protect public health and safety, ensure environmental quality, and support the State's long-term economic viability in the use of California's land and mineral resources through science and technology.

## **Department of Water Resources**

Mission Statement: To manage the water resources of California in cooperation with other agencies, to benefit the State's people, and to protect, restore, and enhance the natural and human environments.

## **California State Lands Commission**

Mission: The California State Lands Commission serves the people of California by providing stewardship of the lands, waterways, and resources entrusted to its care through economic development, protection, preservation, and restoration.

## **State Conservancies**

### **Tahoe Conservancy**

The California Tahoe Conservancy's Mission is to preserve, protect, restore, enhance, and sustain the unique and significant natural resources and recreation opportunities of the Lake Tahoe Basin.

### **Coastal Conservancy**

Coastal Conservancy's home page states: The Coastal Conservancy acts with others to preserve, protect and restore the resources of the California Coast. Our vision is of a beautiful, restored and accessible coastline.

### **Santa Monica Mountains Conservancy**

Through direct action, alliances, partnerships, and joint powers authorities, the Conservancy's mission is to strategically buy back, preserve, protect, restore, and enhance treasured pieces of Southern California to form an interlinking system of urban, rural, and river parks; open space; trails; and wildlife habitats that are easily accessible to the general public.

### **San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (RMC)**

We were not able to find a mission statement for the RMC. Its web page states: [The RMC] was established to preserve urban open space and habitats in order to provide for low-impact recreation and educational uses, wildlife and habitat restoration and protection, and watershed improvements within its jurisdiction.

### **Coachella Valley and Mountains Conservancy**

The Coachella Conservancy's enabling statute states that its purpose is to, "acquire and hold, in perpetual open space, mountainous lands surrounding the Coachella Valley and natural community conservation lands within the Coachella Valley, and to provide for the protection of wildlife resources on, and the public's enjoyment of, and the enhancement of their recreational and educational experiences on, those lands..."

### **Baldwin Hills Conservancy**

The Baldwin Hills Conservancy's home page describes its purpose as follows. The Baldwin Hills Conservancy was created to develop and coordinate an integrated program of resources stewardship so that the Baldwin Hills area is managed for its optimum recreational and natural resource values based upon the needs and desires of the surrounding community.

### **San Joaquin River Conservancy**

Mission: The San Joaquin River Conservancy develops, operates, and maintains the San Joaquin River Parkway. The Conservancy is charged with preserving and enhancing the San Joaquin River's extraordinary biological diversity, protecting its valued cultural and natural resources and providing educational and recreational opportunities to the local communities.

### **State Water Resources Control Board**

The mission of the SWRCB is to ensure the highest reasonable quality for waters of the State, while allocating those waters to achieve the optimum balance of beneficial uses. The joint authority of water allocation and water quality protection enables the SWRCB to provide comprehensive protection for California's waters.

### **CALFED**

The mission of the CALFED Bay-Delta Program is to develop and implement a long-term comprehensive plan that will restore ecological health and improve water management for beneficial uses of the Bay-Delta System.



### **U.S. Fish and Wildlife Service**

The U.S. Fish and Wildlife Service's mission is, working with others, to conserve, protect and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people.

### **National Park Service**

Mission: The National Park Service preserves unimpaired the natural and cultural resources and values of the national park system for the enjoyment, education, and inspiration of this and future generations. The Park Service cooperates with partners to extend the benefits of natural and cultural resource conservation and outdoor recreation throughout this country and the world.

### **U.S. Forest Service**

The phrase, "CARING FOR THE LAND AND SERVING PEOPLE," captures the Forest Service mission. As set forth in law, the mission is to achieve quality land management under the sustainable multiple-use management concept to meet the diverse needs of people.

### **Bureau of Land Management**

It is the mission of the Bureau of Land Management to sustain the health, diversity and productivity of the public lands for the use and enjoyment of present and future generations.

## **Appendix B: Glossary of Acronyms**

BLM	Bureau of Land Management
CDF	California Department of Forestry and Fire Protection
CEQA	California Environmental Quality Act
DFG	Department of Fish and Game
DOC	Department of Conservation
DPR	Department of Parks and Recreation
DWR	Department of Water Resources
EIS	Environmental Impact Statement
ESA	Endangered Species Act
FGC	Fish and Game Code
FLPMA	Federal Land Policy and Management Act
FWS	Fish and Wildlife Service
HCP	Habitat Conservation Plan
LAPS	Land Acquisition Priority System
LWCF	Land and Water Conservation Fund
MBCA	Migratory Bird Conservation Act
MOU	Memorandum of Understanding
MUSYA	Multiple-Use Sustained Yield Act
NAWCA	North American Wetlands Conservation Act
NAWMP	North American Waterfowl Management Plan
NCCP	Natural Communities Conservation Plans
NCCP	Natural Communities Conservation Plan
NEPA	National Environmental Protection Act
NFMA	National Forest Management Act
NOAA	National Ocean and Atmospheric Administration
NPS	National Park Service
NRSAA	National Refuge System Administration Act
NWPCP	National Wetlands Priority Conservation Plan
OHV	Off-Highway Vehicle
PRC	Public Resources Code
RCDs	Resource Conservation Districts
RMAC	Range Management Advisory Committee
RMC	San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy
RMP	Resource Management Plans
RWQCBs	Regional Water Quality Control Boards
SMMC	Santa Monica Mountains Conservancy
SWC	State Water Code
SWP	State Water Project
SWRCB	State Water Resources Control Board
THP	Timber Harvest Plan
TMDL	Total Maximum Daily Load
USEPA	United States Environmental Protection Agency
USFS	U.S. Forest Service
WCB	Wildlife Conservation Board
WRP	Water Resources Department

## **Appendix C: Powers of the California Resources Agency**

### **State Resources Agency**

#### **General Powers of the Secretary**

The Secretary, “has the power of general supervision over, and is directly responsible to the Governor for the operations of each department, office, or unit with in the agency” (Gov. Code §12850). The Secretary shall advise the Governor and assist him in establishing major policy and program matters affecting each department in the agency and shall transmit policy problems and decisions between the Governor and each department (Gov. Code §12850.2). The Secretary shall settle conflicts between or among departments and coordinate the activities of each department (Gov. Code §12850.4).

The Secretary is also required to review and approve the proposed budget of each department and “shall seek continually to improve the organization structure, the operating policies, and the management information systems of each department” and shall report to the Governor on necessary changes in the administration structure of the agency (Gov. Code §12850, §12852). Of special significance for CCRISP, the Secretary shall, “develop and report to the Governor on legislative, budgetary, and administrative programs to accomplish comprehensive, long-range, coordinated planning and policy formulation in the matters of public interest related to his agency” (Gov. Code §12851).

#### **Park Lands**

Every five years the Secretary is required to submit an environmental review of the implementation of the Off-Highway Motor Vehicle Recreation program to relevant committees in the Legislature (PRC §5090.12).

The Secretary was mandated in a 1980 statute to adopt guidelines for the management of wilderness areas (PRC §5093.33). The Secretary is required to annually report to the Legislature and Governor on the status of the wilderness preservation system (PRC §5093.39).

Pursuant the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Act of 1999, the Secretary is required to administer a river parkway and restoration program and administer grants to pursue the goals of this program from an allocation in the Bond Fund.

State park system projects approved by the Secretary must be forwarded to the Director of Finance for inclusion in the Budget Bill (PRC §5096.320).

The Secretary is responsible for administering grants to the Sierra Nevada Cascade Program for recreation projects (PRC §5096.347).

The Secretary must report annually to the Legislature on the progress of the Environmental Improvement Program for the Lake Tahoe region. Funds may be restricted if partnership entities are not making adequate progress on implementing the program (PRC §5096.351). The Secretary or her designee is required to be a member of the governing body of the Tahoe Regional Planning Agency (Gov. Code §67041).

### **State Conservancies**

The Secretary or her designee is required to be one of the voting members of the board of the Baldwin Hills Conservancy, the San Gabriel and Lower LA Rivers and Mountains Conservancy, the Santa Monica Mountains Conservancy, the Coachella Valley Mountains Conservancy, the Tahoe Conservancy, and the San Joaquin River Conservancy (PRC §32556, §32606, §33200, §33503, Gov. Code §66906.1, PRC §32515).

The Secretary is required to be a member of the Coastal Conservancy Board (PRC §31100). Any conveyance of land held by the Baldwin Hills Conservancy to the DPR or other public agency is subject to the approval of the Secretary (PRC §32565.5).

### **Wetlands Preservation**

The Resources Agency is required to update existing wetlands resources inventories and prepare a study concerning priority wetland restoration and protection projects. The study is due to the Legislature January 1, 2003 (PRC §5814).

### **River and Water Resources**

Pursuant the California Wild and Scenic Rivers Act, no dam or reservoir shall be constructed on any river unless the Secretary determines that the facility is needed to supply domestic water and that it will not adversely affect the free-flowing condition of the river (PRC §5093.55).

The Secretary or her designee is required to be a member of the California Urban Waterfront Area Restoration Financing Authority (PRC §32050).

The Secretary is required to appoint panelists on the Technical Advisory Panel pursuant the Local Groundwater Management Assistance Act of 2000 (Water Code §10795.14).

In 1991 the Legislature directed The Resource Agency, the Department of Water Resources, the Reclamation Board, and the Department of Fish and Game to enter into a MOU to coordinate the implementation of flood control programs

subject to environmental protection requirements (Water Code §12307). The Resources Agency is required to supervise the implementation of special flood control projects and programs to ensure environmental mitigation and protection requirements are carried out (Water Code §12306.5).

On January 15<sup>th</sup> of each year the Resources Agency is to submit a report to the Legislature evaluating the cumulative impacts of flood control projects and making a determination as to whether a long-term no net loss of wildlife or fisheries habitat has occurred. If a net loss has occurred, the Secretary is required to include a plan for correcting the deficiency (Water Code §12308).

Pursuant legislation enacted in 2000 the Secretary is required to convene a committee to advise Los Angeles County on the preparation and implementation of a LA County Drainage Area project plan. Authorization of the plan is contingent on the Secretary finding that the project includes flood control; river, wildlife and habitat restoration; or park and recreational features (Water Code §12684.2).

Regarding the Clean Water and Water Recycling Program, the Resources Agency is required to make a recommendation to the State Water Resources Control Board regarding each watershed rehabilitation project application (Water Code §78647.2).

### **CALFED Bay-Delta Program**

The Secretary co-chairs the Policy Committee of CALFED. Unless otherwise indicated by the Legislature, the Secretary is required to carry out non-flow related projects in the CALFED Water Quality Control Plan (Water Code §78536.5). Each year the Secretary is required to determine whether the schedules for the CALFED Bay-Delta Ecosystem Restoration Program and the Multipurpose Water Management Program, in the CALFED Preferred Program Alternative, have been substantially adhered to. Dispersal of funds from the Bay-Delta Ecosystem Restoration Account and the Bay-Delta Multipurpose Water Management Subaccount are contingent on adherence (Water Code §78684.12, §79199). Each year the Secretary is required to submit an annual report to the Legislature that describes the status of the implementation of all elements of the CALFED program (Water Code §79200).

### **Coastal and Marine Resources**

The Secretary is responsible for appointing members of the Sea Grant Advisory Panel and the Secretary or her designee is required to serve as the chairperson of the panel (PRC §6232-4).

The Secretary is required to be a non-voting member of the California Coastal Commission and a voting member of the State Coastal Conservancy (PRC

§30301, §31100). The chairperson of the Coastal Conservancy is selected by the Secretary (PRC §31102).

The Secretary or her designee is required to be a member of the Ocean Task Force and the Secretary is required to be the chairperson (PRC §36300-1).

The Secretary is required to establish and chair the State Interagency Coordinating Committee and designate members pursuant the Marine managed Areas Improvement Act (PRC §36800). Also pursuant the Act, the Secretary is required to establish a scientific review panel to evaluate project proposals (PRC §36900).

Pursuant to the California Ocean Resources Stewardship Act of 2000, the Secretary is required to appoint the ten trustees of the California Ocean Trust, one to represent the Resources Agency (PRC §36992).

The Secretary is required to appoint a representative to the State Interagency Oil Spill Committee (Gov. Code §8574.9).

### **Agricultural Lands**

The Secretary is the final judge in determining if land is devoted to open-space use of statewide significance for the purposes of Open-Space Subventions (CA Gov. Code §16143).

With regards to the California Farmland Conservation Program of 1995, conservation easements may only be amended with the consent of the Secretary (PRC §10235). Also, an agricultural conservation easement shall not be terminated on the grounds that the land is not profitable unless the Secretary determines there is no reasonable or comparable agricultural use for the land (PRC §10274).

Pursuant to the Channella Environmental Farming Act of 1995, the Secretary is required to appoint one member of the Scientific Advisory Panel on Environmental Farming (Food & Agriculture Code §568).

### **Environmental Quality**

The Secretary has the authority to certify regulatory programs that may be exempt from submitting Environmental Impact Reports for their projects (PRC §21080.5). The Secretary is responsible for certifying CEQA guidelines prepared by the Office of Planning and Research (PRC §21083). In certifying the guidelines, the Secretary must make a finding that the listed exempt projects do not have a significant effect on the environment (PRC §21084). The Secretary has the authority to add or delete projects listed as exempt (PRC §21086).

The Secretary is required to yearly forward projects and programs recommended for funding under the California Environmental Protection Program to the Governor to include in the Budget Bill (PRC §21193).

The Secretary is required to be a member of the State Environmental Quality Study Council (Gov. Code §16051).

Pursuant legislation enacted in 2000 regarding non-vehicular air pollution control, the Secretary is required to establish the California Climate Action Registry, a nonprofit public benefit corporation. The Secretary or her designee is required to be one of seven members (Health & Safety Code §42820, §42821).

### **Energy and Infrastructure**

A 1970 statute required the Resources Agency to establish a program of research on improved methods of power plant siting (PRC §801).

The Secretary is required to be an ex-officio, nonvoting member of the State Energy Resources Conservation and Development Commission (PRC §25202).

In cooperation with the Coastal Commission, the Secretary is required to develop an application process and award grants to counties and cities to be used for planning, assessment, and mitigation of offshore energy projects that are consistent with the State's coastal management program (PRC §35032 §35030).

The Resources Agency may review a facility that generates electricity from a renewable resource for environmental acceptability before it may receive a rate of return increase from the Public Utilities Commission (PUC §454.3).

Pursuant to the Environmental Enhancement and Mitigation Program, the Resources Agency is required to evaluate proposals for projects that address the environmental impact of transportation facilities (Streets and Highways Code §164.56).

The Secretary is required to be a member of the ad hoc earthquake emergency and seismic retrofit permit review panel created in 1994 (Streets and Highways Code §180.3).

The Resources Agency is required to be one of the representatives on the review panel for the Biomass-to-Energy Incentive Grant Program (Food & Agriculture Code §1105).

As established in 2000, the Secretary is required to be a member of the Governor's Clean Energy Green Team (Gov. Code §12078).

## **Coordination and Representation**

The Secretary is required to facilitate coordination between the DFG and the CA Coastal Commission to further the policies of the CA Coastal Act and the Natural Community Conservation Planning Act (CA Gov. Code §12805.1).

The Secretary is required to represent the State in relationships with the Chief of Engineers, United States Army, and his agents for the purposes of the Department of Boating and Waterways and the Boating and Waterways Commission (Harbors & Navigation Code §60).

The Secretary is also required to coordinate programs and regulations of State agencies, cities and counties relating to atomic energy development (Health & Safety Code §114915).

The Secretary must notify the Range Management Advisory Committee (of the State Board of Forestry and Fire Protection) of rangeland resource issues that are being considered by the Resources Agency (PRC §741).

The Resources Agency is responsible for coordinating the activities of State agencies that may affect rivers in the California Wild and Scenic Rivers system, with other State, local and federal agencies whose activities may also affect the rivers (PRC §5093.60).

For the purposes of the Federal Water Project Recreation Act, when both recreation, and fish and wildlife enhancement functions are involved in a project, the Administrator of the Resources Agency is required to designate which department will be the contracting agency with the federal government (PRC §5094.3).

Any dispute between The San Gabriel and Lower LA Rivers and Mountains Conservancy, and another conservancy shall be resolved by the Resources Agency (PRC §32621).

The Secretary may resolve conflicts between the Fish and Game Commission and the State Park and Recreation Commission regarding a State marine reserve, park, or conservation area (PRC §36725).